

Exhibit 3

Plaintiffs' designations are marked in red.

The portions to which McKesson objects are highlighted in yellow.

Condensed Transcript Report

Hartle, Nathan - Plaintiffs' Affirmatives 4-28 9pm

Hartle, Nathan 07-31-2018

Plaintiff's' Affirmatives 01:08:34

Total Time 01:08:34



1 UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF O

2 EASTERN DIVISION

3 IN RE: NATIONAL)

4 PRESCRIPTION) MDL No. 2804 OPIATE LITIGATION)

5 _____) Case No.) 1:17-MD-2804

6) THIS DOCUMENT RELATES) Hon. Dan A.

7 TO ALL CASES) Polster

8 TUESDAY, JULY 31, 2018

9 HIGHLY CONFIDENTIAL SUBJECT TO FURTHER

10 CONFIDENTIALITY REVIEW

11

12 Videotaped deposition of Nathan J.

13 Hartle, held at the offices of Covington &

14 Burlington, LLP, One City Center, 850 Tenth

15 Street Northwest, Washington, DC, commencing

16 at 9:04 a.m., on the above date, before

17 Carrie A. Campbell, Registered Diplomate

18 Reporter, Certified Realtime Reporter,

19 Illinois, California & Texas Certified

20 Shorthand Reporter, Missouri & Kansas

21 Certified Court Reporter.

22 GOLKOW LITIGATION SERVICES

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11 Henry Schein Medical Systems, Inc.

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18 VIDEOGRAPHER:

19 DANIEL HOLMSTOCK, Golkow Litigation Services

20

21 TRIAL TECHNICIAN: COREY SMITH,

22 Golkow Litigation Services

23

24

25

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 2 Hearing before the Subcommittee on Oversight
 3 and Investigations of the Committee on Energy and
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 5 Congress, first session, August 28, 2001"
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 11 Internet, June 17, 2004"
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 13 MCKMDL00478906 - MCKMDL00478909
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 7 Hartle 8 Drugs, Federal Register, Vol 36, No. 80, Saturday,
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 9 McKesson 861 Federal Reporter, 3d 77 Hartle 9 Series,
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 10 Pharmaceutical, Inc. Vs. Drug Enforcement
 11 Administration
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 13 Hearings before the committee on Ways and
 14 Means of the House of Representatives, 61st
 15 Congress, 3d session on HR 25240, HR 25241, HR
 16 25242, and HR 28791, December 14, 1910, and
 17 January 11, 1911"
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 7 McKesson US Department of Justice, 246
 8 Hartle 23 DEA, December 27, 2007, MCKMDL00478910 -
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 22 Hartle 34 from William J. Ihlenfeld, II, to
 23 Geoffrey E. Hobart, MCKMDL00409174 -

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1 VIDEOGRAPHER: All right. We
 2 are now on the record.
 3 My name is Daniel Holmstock. I
 4 am the videographer for Golkow
 5 Litigation Services.
 6 Today's date is July 31, 2018.
 7 The time on the video screen is
 8 9:04 a.m.
 9 This video deposition is being
 10 recorded at the law firm of Covington
 11 & Burling LLP at 850 Tenth Street,
 12 Northwest, in Washington, DC, in the
 13 matter of In Re: National Prescription
 14 Opiate Litigation. It is pending
 15 before the United States District
 16 Court for the Northern District of
 17 Ohio, Eastern Division.
 18 The deponent today is Mr. Nate
 19 Hartle.
 20 Will counsel please introduce
 21 themselves and whom they represent.
 22 MR. FARRELL: Paul Farrell on
 23 behalf of the plaintiffs.
 24 MR. RAFFERTY: Troy Rafferty on
 25 behalf of the plaintiffs.

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1 MR. FULLER: Mike Fuller on
 2 behalf of plaintiffs.
 3 MR. SUDDATH: Tom Suddath on
 4 behalf of AmerisourceBergen.
 5 MR. BOGLE: Brandon Bogle on
 6 behalf of the plaintiffs.
 7 MR. PELINI: Craig Pelini,
 8 Prescription Supply.
 9 MR. FAUVRE: David Fauvre on
 10 behalf of the Endo and Par
 11 Pharmaceutical defendants.
 12 MR. LOVRIEN: Chris Lovrien,
 13 Jones Day, on behalf of Walmart.
 14 MR. DAVISON: Bill Davison,
 15 Ropes & Gray, on behalf of
 16 Mallinckrodt, LLC, and SpecGx, LLC.
 17 MS. PETERSEN: Miranda
 18 Petersen, Williams & Connolly, on
 19 behalf of Cardinal Health, Inc.
 20 MS. MCNAMARA: Colleen
 21 McNamara, Williams & Connolly, on
 22 behalf of Cardinal Health, Inc.
 23 MR. LIVINGSTON: Scott
 24 Livingston on behalf of HBC.
 25 MR. O'CROININ: Conor

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1 O'Croinin, CVS.
 2 MS. MONAGHAN: Meghan Monaghan,
 3 Covington & Burling, on behalf of
 4 McKesson and the witness.
 5 MS. HENN: Emily Henn,
 6 Covington & Burling, on behalf of
 7 McKesson and the witness.
 8 VIDEOGRAPHER: Via telephone?
 9 MS. PEDROZA: This is Monica
 10 Pedroza on behalf of Teva
 11 Pharmaceuticals USA, Inc., Cephalon
 12 Inc., Watson Laboratories, Inc.,
 13 Actavis, LLC, and Actavis Pharma, Inc.
 14 MR. LAVELLE: John Lavelle on
 15 behalf of Rite Aid.
 16 MR. MONTMINY: Brendan Montminy
 17 on behalf Henry Schein, Inc., and
 18 Henry Schein Medical Systems, Inc.
 19 MR. AUBEL: Bill Aubel, Jackson
 20 Kelly, on behalf of Miami-Luken, Inc.
 21 MR. WEINBERGER: Pete
 22 Weinberger on behalf of the
 23 plaintiffs.
 24 VIDEOGRAPHER: The court
 25 reporter is Carrie Campbell, who will

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1 deposition taken before?
 2 A. 20 years ago when I -- when I
 3 worked at a previous employer for a theft
 4 case, investigative.
 5 Q. So if you'll bear with me,
 6 we're going to do a little bit of paperwork
 7 to start -- to start off.
 8 A. Okay.
 9 **Q. The first thing is, is are you**
 10 **aware that today you'll be testifying not as**
 11 **Nate Hartle but as McKesson Corporation?**
 12 **A. I am.**
 13 (McKesson-Hartle Exhibit 1
 14 marked for identification.)
 15 QUESTIONS BY MR. FARRELL:
 16 Q. I'm going to have marked and
 17 show you McKesson 30(b)(6) Document 1, and
 18 this is the first notice of deposition that
 19 was filed in this case.
 20 Have you had a chance to review
 21 this document before today?
 22 A. I do. I have copies of this.
 23 Q. And you understand that today
 24 I'll be asking you questions about the
 25 subject matters that are in Exhibit 1, and

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1 now administer the oath to the
 2 witness.
 3
 4 NATHAN J. HARTLE,
 5 of lawful age, having been first duly sworn
 6 to tell the truth, the whole truth and
 7 nothing but the truth, deposes and says on
 8 behalf of the Plaintiffs, as follows:
 9
 10 DIRECT EXAMINATION
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Good morning.
 13 A. Good morning.
 14 **Q. Please state your name.**
 15 **A. My name is Nathan -- I go by**
 16 **Nate -- John Hartle.**
 17 **Q. And what is your occupation,**
 18 **and who is your employer?**
 19 **A. I'm currently a vice president**
 20 **of regulatory affairs and compliance for**
 21 **McKesson Corporation.**
 22 **Q. How long have you been employed**
 23 **by McKesson?**
 24 **A. Since May of 2014.**
 25 Q. Have you ever had your

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1 McKesson has been kind enough to designate
 2 you as its spokesman to answer these
 3 questions?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: I understand.
 6 (McKesson-Hartle Exhibit 2
 7 marked for identification.)
 8 QUESTIONS BY MR. FARRELL:
 9 Q. There's a second notice. We'll
 10 have that marked as Exhibit 2, and it's MCK
 11 30(b)(6)_02.
 12 Have you had a chance to review
 13 this document before today?
 14 A. I have.
 15 Q. Now, it's my understanding that
 16 McKesson has designated you to testify on
 17 certain subject matters within this document
 18 but not all.
 19 Is that your understanding?
 20 A. Correct.
 21 Q. And those numbers are numbers
 22 9, 14, 16, 17, 18, 19, 20, 21 and 22.
 23 Is that your understanding as
 24 well?
 25 A. Yes.

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1 (McKesson-Hartle Exhibit 3
 2 marked for identification.)
 3 QUESTIONS BY MR. FARRELL:
 4 Q. The next document, just to be
 5 fair, is I'm going to mark as Exhibit 3
 6 McKesson's objections and responses to each
 7 of these subject matters to create the whole
 8 record, if anybody wants to see it. This
 9 will be McKesson 30(b)(6)_3.
 10 Have you had a chance to review
 11 this document before today?
 12 A. I have.
 13 Q. It's much longer, isn't it?
 14 (McKesson-Hartle Exhibit 4
 15 marked for identification.)
 16 QUESTIONS BY MR. FARRELL:
 17 Q. And finally, I'm going to show
 18 you McKesson 30(b)(6)_4, which we've also
 19 labeled as Exhibit 4, which is simply the
 20 redesignation of the date and location and
 21 the subject matters of today's deposition.
 22 Have you had a chance to review
 23 this document?
 24 A. I have.
 25 Q. So that everybody is on the

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1 stamp in the bottom right-hand corner.
 2 Sometimes it's not been all that successful
 3 because sometimes the document comes from a
 4 prior production and has not yet matriculated
 5 or made its way over to the MDL production.
 6 But nonetheless, those are the
 7 three different Bates stamp numbering systems
 8 that we're going to come across today, and
 9 when I talk on the record, I'll try to refer
 10 just to the MDL number.
 11 For the people on the telephone
 12 and the record and then for you and I, it'll
 13 be easiest for us to use the top right-hand
 14 corner.
 15 A. Okay.
 16 Q. When did you first learn that
 17 you would be designated as the corporate
 18 witness for McKesson?
 19 A. I don't know the exact date,
 20 but I believe within the last, say, 30 days
 21 or so.
 22 Q. Do you know Gary Boggs?
 23 A. I do know Gary.
 24 Q. Are you aware that he has been
 25 designated as a 30(b)(6) designee in another

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1 same page, what you'll notice is that there
 2 are a number of different Bates stamps that
 3 we'll see throughout the day. For purposes
 4 of this deposition, what we've done is we've
 5 created a unique and separate Bates stamp
 6 just for your deposition, which can be found
 7 in the top right-hand corner of, I hope, all
 8 of the exhibits today. And some of them,
 9 start MCK 30(b)(6) and then underscore, and
 10 then the first number you'll see is the
 11 sequential number of exhibits, followed by a
 12 dash and then individual page numbers.
 13 As we go through later today, I
 14 abandon the normal sequential numbering
 15 system because we're going to bounce around
 16 the timeline a little bit, and instead I use
 17 basically a date indicator in the top
 18 right-hand corner.
 19 A. Okay.
 20 Q. Now, that being said for
 21 everybody on the telephone, a lot of these
 22 documents have been produced in this
 23 litigation, and what you'll find, to the best
 24 of my ability, is I've always tried to find
 25 the document that contains the MDL Bates

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1 litigation pending in West Virginia?
 2 A. I am aware.
 3 Q. Have you read the deposition of
 4 McKesson from that litigation?
 5 A. I have.
 6 Q. Is there anything in that
 7 deposition that you think is wrong or
 8 factually inaccurate?
 9 A. Not that I can recall.
 10 Q. Are you prepared, sitting here
 11 today, to adopt or affirm the representations
 12 McKesson made in the West Virginia Attorney
 13 General litigation?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Can you ask that
 16 again, please?
 17 QUESTIONS BY MR. FARRELL:
 18 Q. So it's a little bit of a
 19 Plato's Theory of the Forms right now, but
 20 for all intents and purposes, McKesson is
 21 sitting here in front of me today, and
 22 McKesson was sitting before Mr. Lee Javins
 23 from the West Virginia Attorney General
 24 litigation pending in Boone County several
 25 weeks ago.

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1 And so I'm trying to make the
 2 connection that sitting here today McKesson
 3 affirms or adopts all of its testimony from
 4 the West Virginia litigation.
 5 MS. HENN: Objection to form.
 6 This witness is here on -- designated
 7 on behalf of McKesson for the topics
 8 you've indicated.
 9 But you can answer the
 10 question.
 11 THE WITNESS: I'm not sure how
 12 to answer that question.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Okay. So the answer is either
 15 you adopt your testimony from the prior
 16 litigation or you choose not to today.
 17 MS. HENN: Objection to form.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. It's okay either way.
 20 A. What's that?
 21 Q. It's okay either way.
 22 A. Yeah.
 23 Q. It's just a question of whether
 24 or not I'm going to go back through some of
 25 the other subject matters that Gary Boggs

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1 witness not to respond if you're being
 2 asked, as I understand you are, for a
 3 list of documents counsel showed you.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. Okay. Have all of the
 6 documents that counsel shared with McKesson
 7 been disclosed in the MDL?
 8 MS. HENN: Do you mean to ask
 9 whether the documents Mr. Hartle has
 10 used in preparing for the deposition,
 11 have they been produced?
 12 MR. FARRELL: Yes.
 13 MS. HENN: I believe that to be
 14 the case, yes.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. Okay. So is it fair to say
 17 that everything Mr. Hartle reviewed has
 18 actually been produced in the litigation
 19 today?
 20 MS. HENN: That is my
 21 understanding.
 22 MR. FARRELL: The reason I ask
 23 is because when I read Mr. Boggs'
 24 testimony, there are references to a
 25 dozen or so documents that he relied

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1 testified to or whether or not I can rely on
 2 that sworn testimony --
 3 A. Okay.
 4 Q. -- to be applicable today.
 5 MS. HENN: Objection to form,
 6 and same comment as I made before.
 7 MR. FARRELL: So, Counsel,
 8 that's your second speaking objection,
 9 and so I would ask that you keep your
 10 comments from the record.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. So it's okay if you do not want
 13 to adopt that prior testimony. We can go
 14 through it today. You may not have the
 15 authority by McKesson to do so.
 16 A. Yeah. Again, I'm not sure how
 17 to answer that question specifically.
 18 Q. It's not a problem.
 19 A. Yeah. Okay.
 20 Q. Can you tell me what documents
 21 you reviewed to prepare for today's
 22 testimony?
 23 MS. HENN: I'm going to object
 24 to that question as calling for
 25 attorney work product and instruct the

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1 upon and discussed that have not yet
 2 been disclosed in the MDL.
 3 Are you aware of any documents
 4 that are pending that have not been
 5 produced?
 6 MS. HENN: I know that we're
 7 not complete with our productions, but
 8 I'm not -- I don't know what those
 9 documents -- what documents you're
 10 referring to.
 11 MR. FARRELL: So to the extent
 12 that there are future documents that
 13 are produced that are relevant to the
 14 subject matters that are in the
 15 30(b)(6) notices, we reserve our right
 16 to petition the Court for good cause
 17 to extend or continue this deposition.
 18 MS. HENN: I note your
 19 reservation of rights. We may
 20 disagree on the ability of plaintiffs
 21 to continue this deposition, but let's
 22 continue.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Other than the documents
 25 provided by counsel to you in preparation for

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1 this deposition, did you on your own review
 2 any documents?
 3 A. Yes, I reviewed a handful of
 4 documents that are standard with our program.
 5 Q. Okay. Can you tell me which
 6 ones they are?
 7 A. Can I ask a clarifying
 8 question? Can you repeat -- do the documents
 9 that had already -- documents that haven't
 10 been produced? Anything in addition to
 11 what --
 12 Q. That would be a swell place to
 13 start.
 14 A. You know, as I think about
 15 things that I've reviewed, it's standard
 16 operating manuals and procedures, and I think
 17 likely all that -- that stuff is part of what
 18 was produced, so I don't --
 19 Q. That's actually not a very fair
 20 way to place it because you probably haven't
 21 studied the production list yet from
 22 McKesson.
 23 A. No. No.
 24 Q. So let's talk about it in a
 25 different context.

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1 anything stored on MCK.NET, our intra -- the
 2 company's intra site.
 3 Q. I just wanted to say MCK.NET.
 4 A. MCK.NET, yeah.
 5 Q. Did you review documents that
 6 were on your personal computer -- that's a
 7 bad question.
 8 Did you review documents that
 9 are located on your hard drive of your
 10 computer?
 11 A. My work computer?
 12 Q. Yes.
 13 A. Yes.
 14 Q. Would those documents also have
 15 been on the server?
 16 A. Could you clarify "server"?
 17 Q. Yeah. So in general, when you
 18 have a network of computers, sometimes
 19 there's a central repository where
 20 everybody's computer can pull up files from,
 21 and then there's also on your own computer a
 22 hard drive that nobody else can look at,
 23 except you, from your computer station.
 24 A. I understand that, sir, but
 25 I -- you know, in terms of the shared

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1 A. Okay.
 2 Q. I'm assuming at some point in
 3 time your counsel provided you some documents
 4 that they culled through based upon the legal
 5 documents, and that, arguably, has been the
 6 subject of some debate between the lawyers on
 7 whether that list is producible or not.
 8 Aside from that, did you
 9 independently go and review anything on your
 10 own, document-wise, to prepare for today?
 11 A. Document-wise? You know, I
 12 looked at files of mine, you know, just, you
 13 know, what I -- what I have in my own, you
 14 know, storage on things that I've done or
 15 projects that I've been on and reviewed just
 16 a variety of different pieces of information
 17 that personally I have.
 18 Q. Where would those files be
 19 located?
 20 A. On my computer, whether it be
 21 e-mails or in documents on my standard
 22 storage on my computer.
 23 Q. Would it be documents from
 24 MCK.NET?
 25 A. I don't think there was

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1 repository that we use in regulatory affairs,
 2 yes, there's documents stored on there that
 3 I've reviewed.
 4 Q. What about documents on your
 5 personal hard drive on your office computer?
 6 A. Yes, I store documents on my
 7 personal office computer.
 8 Q. And those documents you
 9 reviewed prior to today's deposition?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: There are some
 12 documents.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Did you rely on any of those
 15 documents or did any of those documents
 16 refresh your recollection about the subject
 17 matters of today's deposition?
 18 A. I used --
 19 MS. HENN: Objection to form.
 20 Go ahead.
 21 THE WITNESS: I used them to
 22 refresh.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Okay. How about e-mails? Did
 25 you go and review any old e-mails?

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1 A. I may have looked at a few
 2 e-mails.
 3 Q. Do any of them particularly
 4 stand out?
 5 A. No.
 6 Q. Who would the e-mails have come
 7 from that you were reviewing?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: Could be a
 10 variety of people. I don't recall,
 11 you know, specific e-mails that I
 12 looked at. Could be from my team or
 13 part of a project or...
 14 QUESTIONS BY MR. FARRELL:
 15 Q. And I'm sorry if I asked this
 16 before. How long have you been with
 17 McKesson?
 18 A. Since 2014. May of 2014.
 19 Q. You understand that some of the
 20 subject matters today may predate 2014?
 21 A. I do understand that.
 22 Q. Other than documents provided
 23 by your lawyer, where did you find documents
 24 that predated 2014?
 25 MS. HENN: Objection to form.

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1 I do have documents, as I joined McKesson,
 2 that I reviewed and had stored either on my
 3 personal computer, on my work computer, or
 4 the R drive that predate 2006.
 5 Q. All right. So we're going to
 6 jump into some topics.
 7 A. Okay.
 8 Q. Have you read the Masters
 9 Pharmaceutical case?
 10 A. Not for a while. I read it
 11 when it first came out, you know.
 12 Q. That was June of 2017.
 13 So when I start asking
 14 questions, I'm going to do my very best to
 15 keep envisioning McKesson's logo sitting in
 16 front of me instead of Nate Hartle.
 17 A. Okay.
 18 Q. So let me ask a different way.
 19 **Is McKesson aware of the**
 20 **publishing of the Masters Pharmaceutical**
 21 **case?**
 22 MS. HENN: Objection to form.
 23 **THE WITNESS: We are.**
 24 **QUESTIONS BY MR. FARRELL:**
 25 **Q. You're aware that in Masters**

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1 THE WITNESS: They would be on
 2 our shared drive or our space where
 3 regulatory affairs -- it's called the
 4 R drive. That's where we would share
 5 information.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Okay. Other than the R drive,
 8 where else would we find those documents?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: I'm not sure -- I
 11 don't believe I accessed anything else
 12 outside of the hard drive. I know
 13 there's other sites, a share point
 14 site in the past, but I believe mine
 15 were all from the R drive.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Have you reviewed any documents
 18 or seen any documents that predate 2006?
 19 A. I have.
 20 Q. And did you -- where did those
 21 documents come from?
 22 I'll make it easier. Did those
 23 documents come from the lawyers?
 24 A. I have some in the -- the -- my
 25 preparation over the past few days, but also

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1 **Pharmaceutical there was a discussion of the**
 2 **reporting requirement?**
 3 **A. I am.**
 4 Q. And does McKesson acknowledge
 5 that is the law in the United States?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Could you ask
 8 that question again, please? Do I --
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Sure.
 11 I'm jumping out of order a
 12 little bit, but I'm going to see if I can
 13 actually grab the folder for you.
 14 **We're not going to premark this**
 15 **because that will absolutely mess up my**
 16 **numbering system, but the top right-hand**
 17 **corner it's Bates stamped 2017_06_30.**
 18 **And I apologize for the**
 19 **flopping of the documents across the big**
 20 **table.**
 21 **This is Masters Pharmaceutical.**
 22 **Has McKesson read this document?**
 23 MS. HENN: Objection to form.
 24 **THE WITNESS: I believe that**
 25 **several have read this document.**

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Have you read this document in
 3 preparation for today's deposition?
 4 A. Did I have it in the past?
 5 Q. No.
 6 In preparation for today's
 7 deposition, have you read this as McKesson's
 8 corporate designee?
 9 A. I did not read this specific
 10 right before the deposition.
 11 Q. So it's not -- it's not a
 12 memory contest --
 13 A. Right.
 14 Q. -- and that's why I brought the
 15 documents --
 16 A. Right.
 17 Q. -- so that -- so that we can
 18 talk about some of the subject matters.
 19 The first thing I'd like you to
 20 do is turn to the Bates stamp page 7. And
 21 you'll notice that there are two columns, and
 22 in the bottom right-hand corner the paragraph
 23 heading number 2.
 24 Do you see that?
 25 A. Yes.

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1 regulated supply chain and use the
 2 information to ferret out potentially illegal
 3 activity."
 4 Q. Does McKesson acknowledge that
 5 it has a duty under the reporting
 6 requirement?
 7 MS. HENN: Objection to form.
 8 THE WITNESS: Acknowledge that
 9 we -- we, as part of the designing and
 10 operating the suspicious order system,
 11 have to report suspicious orders.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. That wasn't my question.
 14 My question is: Does McKesson
 15 acknowledge the reporting requirement, as you
 16 just read aloud, is a duty owed by McKesson
 17 under the federal regulations and United
 18 States Code?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: And it's our
 21 responsibility to report suspicious
 22 orders.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. So the answer to my question is
 25 yes --

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1 Q. And midway down through, you'll
 2 see that in the parentheses it says the
 3 "reporting requirement."
 4 A. I see that.
 5 Q. Do you see it?
 6 A. I do.
 7 Q. And then immediately after
 8 that, it describes what the reporting
 9 requirement is. And I don't know if you do
 10 better reading it aloud or reading it to
 11 yourself.
 12 Would you like me to read it,
 13 or would you like to read it?
 14 A. I can read it.
 15 Q. All right. Starting with "the
 16 reporting requirement is a relatively modest
 17 one," will you finish the sentence?
 18 A. I read that sentence.
 19 Q. Okay. Now, will you read it
 20 aloud?
 21 A. "It requires only that a
 22 distributor provide basic information about
 23 certain orders to DEA so that DEA
 24 investigators in the field can aggregate
 25 reports from every point along the legally

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1 A. Yes.
 2 Q. -- no, or I don't know.
 3 MS. HENN: Objection to form.
 4 THE WITNESS: It is our -- yes.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Okay. Now, I want you to go
 7 down, and if you actually flip the page,
 8 we'll cheat to the end, and it's the end of
 9 the first sentence in the top left-hand
 10 corner. In parentheses it says, "The
 11 shipping requirement."
 12 Do you see that?
 13 A. Where am I looking again?
 14 Sorry.
 15 Q. Very top left-hand corner
 16 there's a --
 17 A. Okay. Shipping requirement. I
 18 see that.
 19 Q. All right. Now what we're
 20 going to do is go to the beginning of that
 21 sentence on the previous page, and it's the
 22 last full sentence. It starts with "once a
 23 distributor has."
 24 Do you see that sentence?
 25 A. I see that.

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1 Q. Now I'm going to give you a
 2 chance to read it without -- and digest it
 3 for a second.
 4 A. I've read that.
 5 **Q. All right. Now, can you read**
 6 **it aloud for the record?**
 7 **A. "Once a distributor has**
 8 **reported a suspicious order, it must make one**
 9 **of two choices, decline to ship the order or**
 10 **conduct some due diligence, and if it is able**
 11 **to determine that the order is not likely to**
 12 **be diverted into illegal channels, ship the**
 13 **order."**
 14 **Q. Does McKesson acknowledge that**
 15 **the shipping requirement is a duty it owes**
 16 **under the United States Code and the Code of**
 17 **Federal Regulations?**
 18 MS. HENN: Objection to form.
 19 **THE WITNESS: Yes.**
 20 (McKesson-Hartle Exhibit 5
 21 marked for identification.)
 22 QUESTIONS BY MR. FARRELL:
 23 Q. We'll come back to this later.
 24 **All right. The next document**
 25 **we're going to reference is MCK 30(b)(6)_5.**

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1 **Prevention and Control, Subchapter 1, Control**
 2 **and Enforcement, Part A, Introductory**
 3 **Provisions, this is the beginning of the**
 4 **Controlled Substances Act.**
 5 **McKesson is aware of and**
 6 **acknowledges that its role in the chain of**
 7 **distribution of opioids is governed by the**
 8 **Controlled Substances Act, agreed?**
 9 MS. HENN: Objection to form.
 10 **THE WITNESS: Yes.**
 11 QUESTIONS BY MR. FARRELL:
 12 **Q. Now, I'm going to have you look**
 13 **down all the way at all those letters and**
 14 **numbers at the very bottom, Public Law**
 15 **91-513, Title 2. And the date there is**
 16 **October 27, 1970.**
 17 **McKesson is aware that the**
 18 **Controlled Substances Act has been in force**
 19 **and effect since 1970, correct?**
 20 MS. HENN: Objection to form.
 21 **THE WITNESS: Correct.**
 22 QUESTIONS BY MR. FARRELL:
 23 **Q. So Section 801, which is on the**
 24 **first page, is Congressional findings and**
 25 **declarations regarding controlled substances.**

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1 And so to make this easy so I don't have to
 2 say all those letters and numbers, as we move
 3 forward I'm just going to refer to it exhibit
 4 such-and-such.
 5 **A. Okay.**
 6 Q. And when I do, we're talking
 7 about the exhibit for this deposition.
 8 I'm going to represent to you
 9 that there are four pages to this exhibit,
 10 that you won't find this exhibit anywhere on
 11 the Internet because I made them myself. I'm
 12 going to give you a second to flip through
 13 them, and what I'm going to represent to you
 14 is that these are four different provisions
 15 from four different United States Code
 16 provisions. So I'll give you a second to
 17 review.
 18 A. Okay.
 19 **Q. So the first thing I want you**
 20 **to take note of on Exhibit 5, page 1, is the**
 21 **top left-hand corner, which is the great seal**
 22 **of our United States Congress.**
 23 **And if you look under the**
 24 **United States Code, Title 21, for food and**
 25 **drugs, under Chapter 13, Drug Abuse**

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1 **Do you see that?**
 2 **A. I do.**
 3 **Q. And it says, "The Congress**
 4 **agrees makes the following findings and**
 5 **declarations."**
 6 **And to be fair, paragraph 1,**
 7 **will you read it aloud?**
 8 **A. "Many of the drugs included**
 9 **within this subchapter have a useful and**
 10 **legitimate medical purpose and are necessary**
 11 **to maintain the health and general welfare of**
 12 **the American people."**
 13 **Q. Does McKesson acknowledge and**
 14 **agree with that finding?**
 15 MS. HENN: Objection to form.
 16 **THE WITNESS: Yes.**
 17 QUESTIONS BY MR. FARRELL:
 18 **Q. Now, will you read Section 2**
 19 **aloud, please?**
 20 **A. "The illegal importation,**
 21 **manufacture, distribution and possession and**
 22 **improper use of controlled substances have**
 23 **substantially and detrimentally effect --**
 24 **have a substantial and detrimental effect on**
 25 **the health and general welfare of the**

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1 American people."
 2 Q. Does McKesson acknowledge and
 3 agree with those findings?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Yes.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. So you'll notice in paragraph 2
 8 it includes distribution, correct?
 9 A. Correct.
 10 Q. And McKesson is engaged in the
 11 distribution business, agreed?
 12 A. We are.
 13 Q. And that if they do not follow
 14 the law as provided by the US code and the
 15 Code of Federal Regulations, it has a
 16 substantial and detrimental effect on the
 17 health and general welfare of the American
 18 people, agreed?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Could you restate
 21 that question for me, please?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Yeah.
 24 You agree with paragraph 2 --
 25 A. Right.

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1 A. That's what it says, correct.
 2 Q. Does McKesson agree and
 3 acknowledge that finding?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Yes.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Now, if you flip to page 2,
 8 this is section A 12 of the Controlled
 9 Substances Act, and what it says is it places
 10 drugs into one of several categories.
 11 Is McKesson aware of the
 12 scheduling of controlled substances?
 13 A. We are.
 14 Q. Okay. And what we're dealing
 15 with in this litigation primarily today are
 16 Schedule II drugs, correct?
 17 A. Correct.
 18 Q. Now, there was a period of time
 19 when certain hydrocodone combination products
 20 were Schedule III, but they've since been
 21 reclassified as Schedule II, agreed?
 22 A. Agreed.
 23 Q. And McKesson picked up a book
 24 of business when that happened on the HCPs,
 25 agreed?

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1 Q. -- as McKesson's
 2 representative, correct?
 3 A. Correct.
 4 Q. And what it says is that the
 5 illegal, and one of the words is
 6 distribution, of controlled substances has a
 7 substantial and detrimental effect on the
 8 health and general welfare of the American
 9 people.
 10 I'm asking you if McKesson
 11 agrees and acknowledges with this finding by
 12 Congress in 1970.
 13 MS. HENN: Objection to form.
 14 THE WITNESS: Yes, that the
 15 illegal distribution can -- could
 16 potentially have an impact on the
 17 American --
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Well, it doesn't say
 20 "potential" in paragraph 2, does it?
 21 A. It doesn't.
 22 Q. It says that if you break the
 23 law, it has a substantial and detrimental
 24 effect on the health and general welfare of
 25 the American people.

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1 MS. HENN: Objection to form.
 2 THE WITNESS: Can you rephrase
 3 the book of business and the question
 4 a little bit?
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Yeah, that was a little too
 7 country.
 8 Is McKesson aware that its
 9 sales of hydrocodone combination products
 10 rose following the reclassification of those
 11 opioids from Schedule III to Schedule II?
 12 A. Yes.
 13 Q. So nonetheless, when we're
 14 talking about these products, I'm referencing
 15 Schedule II for today.
 16 A. Understood.
 17 Q. So the Schedule II has a
 18 definition, does it not, under the United
 19 States Code?
 20 A. It does.
 21 Q. There's three aspects to it.
 22 Do you see those three aspects?
 23 A. I do.
 24 Q. Could you read aspect A?
 25 A. "The drug or other substance

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1 has a high potential for abuse."
 2 Q. McKesson is aware since 1970
 3 that it was engaging in business of
 4 distributing Schedule II controlled
 5 substances which have a high potential for
 6 abuse, agreed?
 7 A. Agreed.
 8 Q. And you agree that the opioids,
 9 whether they're Schedule II or formerly
 10 Schedule III, are drugs that have a high
 11 potential for abuse?
 12 A. Agree.
 13 Q. McKesson knows this?
 14 A. We do.
 15 Q. And McKesson has known this
 16 from the very beginning of their decision to
 17 distribute controlled substances?
 18 A. Agreed.
 19 Q. Would you read paragraph B,
 20 please?
 21 A. "The drug or other substance
 22 has a currently accepted medical use and
 23 treatment in the United States or a currently
 24 accept medical use with severe restrictions."
 25 Q. Does McKesson agree and

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1 QUESTIONS BY MR. FARRELL:
 2 Q. What we start with is we start
 3 with the poppy plant, agreed?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Agreed.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Well -- and it's okay if -- I'm
 8 just trying to figure out what McKesson
 9 knows.
 10 McKesson distributes pills from
 11 a manufacturer to pharmacies. That's what
 12 they do, yes?
 13 A. Correct.
 14 Q. The pills that you're
 15 distributing, you're aware they originally
 16 come from the poppy plant?
 17 MS. HENN: Objection to form.
 18 Outside the scope.
 19 THE WITNESS: I'm not an expert
 20 in the medical field and design, but I
 21 understand that, yes.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Does McKesson acknowledge or
 24 appreciate that what they're selling are
 25 opium pills?

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1 acknowledge with this statement from
 2 Congress?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: Yes.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Now, read paragraph C, please.
 7 A. "Abuse of a drug or other
 8 substances may lead to severe psychological
 9 or physical dependence."
 10 Q. Does McKesson agree and
 11 acknowledge this finding?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: Yes.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. So just to be clear, when we're
 16 talking about controlled substances in this
 17 litigation, we're talking about opiates and
 18 opioids, agreed?
 19 A. Agreed.
 20 Q. And what these are, are these
 21 are derivatives of opium in the form of a
 22 pill, agreed?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: It's multiple
 25 formulations but, yes.

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1 MS. HENN: Objection to form.
 2 THE WITNESS: We understand
 3 how -- what's in the pills, so, yes.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. Okay. So the opium can be
 6 manipulated by the manufacturers to be
 7 opiate-like? Opiate-like, right? There's
 8 opiates and opioid, or opiate-like, and
 9 that's how you get hydrocodone and oxycodone
 10 and all the different types of opium pills,
 11 agreed?
 12 A. Correct.
 13 MS. HENN: Objection to form.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. So when I say "opium pills,"
 16 what I'm talking about is the big
 17 classification of all of these pills derived
 18 from the poppy plant.
 19 Is that fair?
 20 A. Understood.
 21 Q. All right. And when we talk
 22 about any of the individual pills, whether
 23 it's hydrocodone or oxycodone, those all fall
 24 within the opium pill umbrella, right?
 25 MS. HENN: Objection to form.

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1 **THE WITNESS: Yes.**
 2 QUESTIONS BY MR. FARRELL:
 3 **Q. So when McKesson is**
 4 **distributing opium pills, it knows and**
 5 **understands that these pills have a high**
 6 **potential for abuse?**
 7 **A. We do.**
 8 Q. Now, they also -- you also --
 9 McKesson understands that these pills do have
 10 an accepted medical use in treatment, but
 11 they have severe restrictions, agreed?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: We understand the
 14 language, yes.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. You understand the language of
 17 paragraph B?
 18 A. Right.
 19 Q. Opium pills have a place in
 20 current medical practice?
 21 A. Yes.
 22 Q. But abusing opium pills may
 23 lead to severe psychological and physical
 24 dependence?
 25 A. Correct.

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1 of this?
 2 A. I do.
 3 Q. What is the date?
 4 A. October 27, 1970.
 5 Q. Does McKesson acknowledge that
 6 Congress gave the United States Attorney
 7 General the authority to promulgate rules
 8 regarding the distribution of opium pills?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: Yes.
 11 QUESTIONS BY MR. FARRELL:
 12 **Q. Now let's flip to the next**
 13 **page. This is the -- this is where we'll be**
 14 **spending most of our time today. This is**
 15 **page 4, Section 823.**
 16 **This is from the United States**
 17 **Code, and it includes, as you'll see down in**
 18 **paragraph 1, what Congress has said is**
 19 **McKesson's duty. I'd like you to first read**
 20 **that to yourself.**
 21 **A. I've read it.**
 22 **Q. All right. Does McKesson**
 23 **acknowledge that it has a duty to maintain**
 24 **effective control against diversion of opium**
 25 **pills as mandated by Congress?**

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1 Q. McKesson understands and
 2 acknowledges this?
 3 A. Yes.
 4 **Q. And that's why the unlawful**
 5 **distribution of these opium pills, relating**
 6 **back to page 1, has a substantial and**
 7 **detrimental effect on the health and general**
 8 **welfare of the American people.**
 9 **Does McKesson acknowledge that?**
 10 MS. HENN: Objection to form.
 11 **THE WITNESS: Yes.**
 12 QUESTIONS BY MR. FARRELL:
 13 Q. Now we're going to flip to
 14 page 3, which is Section 821, rules and
 15 regulations.
 16 Will you please read this
 17 aloud?
 18 A. "The Attorney General is
 19 authorized to promulgate rules and
 20 regulations and to charge reasonable fees
 21 relating to the registration and control of
 22 the manufacture, distribution and dispensing
 23 of controlled substances and to listed
 24 chemicals."
 25 Q. All right. Do you see the date

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1 MS. HENN: Objection to the
 2 form.
 3 **THE WITNESS: We do.**
 4 (McKesson-Hartle Exhibit 6
 5 marked for identification.)
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Now this is a much bigger
 8 document, but I promise we won't go through
 9 every page.
 10 **This is going to be marked as**
 11 **Exhibit 6 in the bottom right-hand corner,**
 12 **and in the top right-hand corner it's MCK**
 13 **30(b)(6)_6.**
 14 **For our fans following on the**
 15 **telephone, this is the Congressional history**
 16 **that can be found at 91-1444. It is Public**
 17 **Law 91-513.**
 18 **Do you remember when we were**
 19 **looking at the United States Code and it**
 20 **referenced Public Law 91-513 from Exhibit 5?**
 21 **A. Yes.**
 22 **Q. This is that document, I'll**
 23 **represent to you.**
 24 **A. Okay.**
 25 Q. And what this is, is this is

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1 the Congressional history of all those codes
 2 that we just walked through. And I'm not
 3 going to ask you to read the entire document
 4 because I've highlighted certain sections for
 5 you.
 6 The first thing I'd like you to
 7 do is I'd like for you to turn to Bates stamp
 8 page 5. And while you read the document to
 9 yourself, I'm going to read it out loud to
 10 save you some time.
 11 A. Okay.
 12 Q. Under Title 2, Control and
 13 Enforcement, it states, "The bill provides
 14 for control by the Justice Department of
 15 problems related to drug abuse through
 16 registration of manufacturers, wholesalers,
 17 retailers and all others in the legitimate
 18 distribution chain and makes transactions
 19 outside the legitimate distribution chain
 20 illegal."
 21 Does McKesson acknowledge this
 22 finding from Congress?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: Yes.
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1 for a minute.
 2 McKesson understands that in
 3 1970 Congress created a closed system,
 4 agreed?
 5 A. Agree.
 6 Q. What a closed system means is
 7 that laissez-faire economics don't apply,
 8 agreed?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: Have to refresh
 11 my memory on laissez-faire economics.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. It's just a fancy French word
 14 for "hands off." The government is
 15 intervening in the marketplace of the chain
 16 of distribution for opium pills, agreed?
 17 A. For controlled substances.
 18 Q. Well, for all controlled
 19 substances --
 20 A. Correct.
 21 Q. -- but today we're talking
 22 about opium pills.
 23 A. Understood.
 24 **Q. So the controlled substances**
 25 **are in a chain of distribution that are**

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1 QUESTIONS BY MR. FARRELL:
 2 **Q. I'm going to have you to turn**
 3 **to Bates stamp page 8. And again, these are**
 4 **my highlights. Congress didn't highlight**
 5 **this in 1970; Paul Junior did. So while you**
 6 **read it, I'm going to read it out loud.**
 7 **"The bill was designed to**
 8 **improve the administration and regulation of**
 9 **the manufacturing, distribution and**
 10 **dispensing of controlled substances by**
 11 **providing for a closed system of drug**
 12 **distribution for legitimate handlers of such**
 13 **drugs. Such a closed system should**
 14 **significantly reduce the widespread diversion**
 15 **of these drugs out of the legitimate channels**
 16 **into the illicit market, while at the same**
 17 **time providing the legitimate drug industry**
 18 **with a unified approach to narcotic and**
 19 **dangerous drug control."**
 20 **Does McKesson acknowledge the**
 21 **truth of this finding by Congress?**
 22 MS. HENN: Objection to form.
 23 **THE WITNESS: Yes.**
 24 QUESTIONS BY MR. FARRELL:
 25 Q. So let's just talk about this

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1 **closed off to the rest of the marketplace.**
 2 **McKesson acknowledges that?**
 3 MS. HENN: Objection to form.
 4 **THE WITNESS: Correct. It's a**
 5 **closed system.**
 6 QUESTIONS BY MR. FARRELL:
 7 **Q. And in order to participate in**
 8 **the closed system, you have to be one of the**
 9 **select few that gets a registration**
 10 **certificate from the DEA, agreed?**
 11 A. Agreed.
 12 **Q. And the reason Congress did**
 13 **this was to reduce diversion. Does McKesson**
 14 **acknowledge that?**
 15 MS. HENN: Objection to form.
 16 **THE WITNESS: Yes, I believe**
 17 **that was the overall intent.**
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So it's creating rules to
 20 prevent diversion to the best of their
 21 ability. McKesson acknowledges that fact?
 22 MS. HENN: Objection to form.
 23 THE WITNESS: Yes.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Because if McKesson doesn't

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1 follow the law, then diversion is likely.
 2 You agree with that statement?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I don't know if
 5 I'd say -- always characterize it as
 6 likely all the time, but diversion can
 7 happen.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Okay. Well, in this specific
 10 provision, the United States Congress passed
 11 a law to close the system of distribution and
 12 enact laws to reduce the widespread diversion
 13 of these drugs. You agree with that? That's
 14 the purpose of this law?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: Yes.
 17 QUESTIONS BY MR. FARRELL:
 18 **Q. So the idea here is that -- to**
 19 **close the system of distribution so that we**
 20 **keep these dangerous opium pills inside the**
 21 **legitimate market for medical care, agreed?**
 22 **A. Agreed.**
 23 **Q. And that's why we have these**
 24 **laws enacted, so that we can do our best to**
 25 **keep these drugs to the patients that need**

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1 QUESTIONS BY MR. FARRELL:
 2 **Q. Does McKesson acknowledge that**
 3 **sentence to be true?**
 4 MS. HENN: Objection to form.
 5 **THE WITNESS: Yes.**
 6 QUESTIONS BY MR. FARRELL:
 7 **Q. It just makes sense, right? If**
 8 **you're going to punish somebody and the**
 9 **punishment isn't very severe, they're likely**
 10 **to what?**
 11 MS. HENN: Objection to form.
 12 **THE WITNESS: To do it again.**
 13 QUESTIONS BY MR. FARRELL:
 14 **Q. Why?**
 15 **A. There's no penalty or**
 16 **accountability.**
 17 Q. And so by making the penalty
 18 prohibitive, what does it do?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Could you ask the
 21 question in a -- again? What --
 22 QUESTIONS BY MR. FARRELL:
 23 Q. If you make the penalty
 24 prohibitive, then what happens?
 25 MS. HENN: Objection to form.

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1 **them, agreed?**
 2 **A. Agreed.**
 3 **Q. And if you don't follow those**
 4 **laws, then what happens is we have diversion**
 5 **into the illicit market?**
 6 MS. HENN: Objection to form.
 7 **THE WITNESS: That can happen**
 8 **if you don't follow those laws.**
 9 QUESTIONS BY MR. FARRELL:
 10 Q. And that's the reason Congress
 11 created the laws as stated in this finding?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: Correct.
 14 QUESTIONS BY MR. FARRELL:
 15 **Q. Next I'm going to have you flip**
 16 **to page 11. And I just highlighted one**
 17 **sentence in here. And it says, "The price**
 18 **for participation in this traffic," which is**
 19 **illicit drug trafficking, "should be**
 20 **prohibitive."**
 21 **Do you see that sentence?**
 22 **A. I see that.**
 23 **Q. Does McKesson acknowledge that?**
 24 MS. HENN: Objection to form.
 25

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1 MR. MONTMINY: Objection to
 2 form. Calls for speculation. This is
 3 Brandon Montminy for Henry Schein.
 4 MS. HENN: And just to note for
 5 everyone's knowledge, many of you know
 6 this, but in the deposition protocol,
 7 one defendant's objection counts for
 8 all defendants, so there's no need to
 9 do depositions [sic] if I'm done them.
 10 But if on the phone you can't hear me,
 11 I can try to speak up.
 12 MR. FARRELL: So that means
 13 you're not allowed to object to this
 14 question because Henry Schein objected
 15 to it.
 16 MS. HENN: I already did, I'm
 17 afraid to say. There are two.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So back to my original
 20 question.
 21 A. Yeah, could you put it in
 22 simpler terms in --
 23 Q. Yeah. Let me put it --
 24 A. Just so I know.
 25 Q. -- in other terms.

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1 A. Yeah.
 2 Q. Let's say that a speeding
 3 ticket is a dollar. What would happen across
 4 America if a speeding ticket was a dollar?
 5 MS. HENN: Objection to form.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. What would happen?
 8 A. It wouldn't hold the same
 9 weight or it wouldn't -- it may not deter
 10 people from speeding.
 11 Q. What if the speeding ticket was
 12 a million dollars? What would that do?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: I'm just
 15 guessing, but likely people would not
 16 speed.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Because the penalty would be
 19 prohibitive, agreed?
 20 A. Agreed.
 21 **Q. Like not to be cute, but**
 22 **McKesson was fined \$13 million in 2008 and**
 23 **then was fined again in 2017 \$150 million.**
 24 **Do you think that the second**
 25 **fine was intended to be more prohibitive than**

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1 from legitimate channels into illegitimate
 2 channels.
 3 Does McKesson acknowledge that?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Yes.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Flip to page 27, the very next
 8 page.
 9 It says, "The legislation
 10 provides that all persons engaged in a
 11 legitimate distribution chain involving drugs
 12 included in one of the schedules under the
 13 bill must be registered with the Attorney
 14 General."
 15 So again, this is bringing full
 16 circle the authority of the Attorney General
 17 and the Department of Justice to promulgate
 18 rules for those that wish to engage in the
 19 closed system of distribution for controlled
 20 substances, and McKesson acknowledges that?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: Yes.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Now flip to page 34. And I
 25 would like for you to please read that

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1 **the first fine?**
 2 MS. HENN: Objection to form.
 3 **THE WITNESS: I believe so.**
 4 QUESTIONS BY MR. FARRELL:
 5 Q. All right. Now, let's go to
 6 Bates stamp page 26.
 7 And it says, "Titles 2 and 3 of
 8 the bill deal with law enforcement aspect of
 9 drug abuse and provide authority for the
 10 Department of Justice to keep track of all
 11 drugs subject to abuse, manufactured or
 12 distributed in the United States, in order to
 13 prevent diversion of these drugs from
 14 legitimate channels of commerce."
 15 Does McKesson acknowledge the
 16 truth of that statement?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Yes.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. This is just another reflection
 21 of the US Code that we were reading that
 22 Congress is giving the authority to the
 23 Department of Justice to enact safety rules
 24 in order to prevent the diversion of
 25 controlled substances, including opium pills,

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1 provision that's highlighted aloud.
 2 A. One second.
 3 "The illegal importation,
 4 manufacture, distribution and possession and
 5 improper use of controlled substances have a
 6 substantial detrimental effect on the
 7 public's health and general welfare."
 8 Q. Does McKesson acknowledge the
 9 truth of that statement?
 10 A. Yes.
 11 Q. So if somebody in the chain of
 12 distribution breaks the law, it has a
 13 substantial detrimental effect on the public
 14 health and general welfare, agreed?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: It can.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Now go to page 44.
 19 Again, this is another
 20 reiteration that Congress authorizes the
 21 Attorney General to "promulgate rules and
 22 regulations and to charge reasonable fees
 23 relating to the registration and control of
 24 the manufacture, distribution and dispensing
 25 of substances covered by the Act."

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1 Does McKesson acknowledge the
 2 authority of the Department of Justice and
 3 the Attorney General to do so?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Yes.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Now flip to page 45, the very
 8 next one. This is a little bit longer, so
 9 I'm going to give you a chance to read it
 10 real quick.
 11 A. Okay. I've read it.
 12 Q. So I'm going to read it aloud,
 13 and I'm going to stop and ask you some
 14 questions.
 15 It's -- Section B of
 16 Section 303 states that the Attorney General,
 17 when issuing registrations, is going to
 18 consider several factors, agreed?
 19 A. Can you say that again? I was
 20 looking at --
 21 Q. Yeah, I was trying to summarize
 22 the first four lines.
 23 A. Yeah.
 24 Q. Basically, what it really boils
 25 down to is this is a reiteration of the

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1 authority to promulgate rules which govern
 2 McKesson so that they maintain effective
 3 controls against diversion, and to adopt any
 4 other rule they want that may be relevant and
 5 consistent with public health and safety?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Agree.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. I just want to make sure that
 10 we start off with the premise that the rules
 11 we're about to go through aren't designed
 12 to -- let me ask it in a better way.
 13 The rules that we're about to
 14 get into, McKesson acknowledges, are designed
 15 with the primary purpose of preventing
 16 diversion?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Correct.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Because diversion impacts
 21 public health and safety, and McKesson
 22 acknowledges that?
 23 A. Yes.
 24 MS. HENN: Objection to form.
 25 (McKesson-Hartle Exhibit 7

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1 findings behind the statute that I showed you
 2 regarding maintaining effective control.
 3 So if you drop down to where it
 4 says number 1 at the bottom of the page --
 5 can you start reading there?
 6 A. Yeah. Okay.
 7 Q. Will you read that aloud,
 8 please, starting with "maintenance of
 9 effective controls"?
 10 A. "Maintenance of effective
 11 controls against diversion of particular
 12 controlled substances into other than
 13 legitimate medical, scientific and industrial
 14 channels."
 15 Q. All right. So again, what
 16 we're talking about is the enactment of rules
 17 to prevent diversion?
 18 A. Correct.
 19 Q. Last factor, factor 5, would
 20 you read that?
 21 A. "Such other factors as may be
 22 relevant to and consistent with the public
 23 health and safety."
 24 Q. Does McKesson acknowledge that
 25 Congress gave the Department of Justice the

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1 marked for identification.)
 2 QUESTIONS BY MR. FARRELL:
 3 Q. The next exhibit we'll have is
 4 marked as Exhibit 7, and correspondingly in
 5 the top right-hand corner it's MCK
 6 30(b)(6)_07-01, and it's just one page.
 7 Once we get through this
 8 section, we can take a break if you like.
 9 All right. So what I'm going
 10 to represent to you is that you will not find
 11 this anywhere on the Internet either because
 12 I made it. In the top left-hand corner is
 13 the Department of Justice seal, and in the
 14 top right-hand corner is the Drug Enforcement
 15 Administration seal, and in the middle is
 16 where you can trace down the rules that
 17 govern McKesson.
 18 Does McKesson acknowledge that
 19 Title 21 CFR 1301.74 governs its conduct with
 20 the distribution of controlled substances,
 21 including opium pills?
 22 MS. HENN: Objection to form.
 23 THE WITNESS: Yes.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Part B is what we're going to

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1 spend the rest of the day on.
 2 Have you read part B before?
 3 A. Yes.
 4 Q. Does McKesson acknowledge that
 5 part B governs its conduct?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Yes.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Does McKesson acknowledge that
 10 for it to be lawfully carrying out its job of
 11 dispensing controlled substances and opium
 12 pills, it must follow paragraph B?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: Yes.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. And if McKesson does not follow
 17 paragraph B, its conduct is illegal?
 18 MS. HENN: Objection to form.
 19 THE WITNESS: Yes.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. To make it clear --
 22 A. Yeah.
 23 Q. -- if McKesson follows
 24 paragraph B, its conduct is legal?
 25 A. Correct.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Yeah, it got very complicated
 3 because it was a compound question with
 4 compound objections.
 5 Does McKesson acknowledge that
 6 paragraph B that we're looking at here is
 7 intended to prevent diversion?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: Yes.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. And that if you follow -- if
 12 McKesson abides by paragraph B, its conduct
 13 is legal and diversion is prevented?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Agreed.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. And if McKesson does not abide
 18 by paragraph B, its conduct is illegal and
 19 the result could be diversion?
 20 MS. HENN: Objection to form.
 21 THE WITNESS: Agree. The
 22 result could be diversion.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Well, if McKesson is
 25 distributing orders of unusual size, could it

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1 Q. And if McKesson does not follow
 2 paragraph B, its conduct is illegal?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: Correct.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. And so bringing full circle, we
 7 understand that the purpose of this
 8 regulation, one of them, is the prevention of
 9 diversion, correct?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: Correct.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. So if you engage in illegal
 14 conduct and violate paragraph B, the result
 15 of that is diversion?
 16 MS. HENN: Objection to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. It's the whole reason this law
 19 was enacted?
 20 MS. HENN: Objection to form.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Does McKesson acknowledge that?
 23 A. Could you ask the specific
 24 question again?
 25 MS. HENN: Objection to form.

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1 be anything other than diversion?
 2 MS. HENN: Objection to form.
 3 THE WITNESS: It could.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. All right. Give me some
 6 examples.
 7 MS. HENN: Objection to form.
 8 THE WITNESS: Maybe the best --
 9 a customer adds, you know -- their
 10 business model changes or they add --
 11 for example, a pharmacy may add
 12 contracts with multiple long-term care
 13 facilities and require that they now
 14 dispense more for legitimate reasons,
 15 so they could order more in that
 16 context.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. So what's the purpose of the
 19 Department of Justice making McKesson follow
 20 paragraph B?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: Say that again?
 23 What's the purpose of why we
 24 follow that? To try to prevent
 25 diversion.

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1 MS. HENN: Mr. Farrell, we've
 2 been going over an hour. Would this
 3 be a good time for a five-minute
 4 break?
 5 MR. FARRELL: Let me close up
 6 this thing and then we'll get there.
 7 MS. HENN: All right.
 8 MR. FARRELL: Is that okay?
 9 MS. HENN: If it's all right
 10 with the witness.
 11 THE WITNESS: It's okay.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. Okay. At the bottom of
 14 Exhibit 7, do you see the numbers in the
 15 brackets?
 16 A. I do.
 17 Q. 36 FR 7778. Do you know what
 18 that means?
 19 A. I don't know off the top of my
 20 head.
 21 Q. What about the letters and
 22 numbers after that; do you know what that
 23 means?
 24 A. The date?
 25 Q. Yes.

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1 THE WITNESS: Yes.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. The language that you just read
 4 in paragraph B, is it the same language
 5 that's in the CFR provision that I showed
 6 you?
 7 A. It's similar. Not word for
 8 word.
 9 Q. Okay. Is there any meaningful
 10 difference?
 11 A. No.
 12 Q. You'll acknowledge that that is
 13 the law today as reflected in the 2016
 14 version that we're not going to have marked
 15 but I'm going to show and ask for -- for --
 16 you can just trust me on it if you'd like,
 17 but you acknowledge that in 20 -- it's the
 18 law today, the same?
 19 MR. SUDDATH: Objection.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Well, and just to be sure, what
 22 I did was I went and ordered the CFR from
 23 every year between 1971 and this year, and I
 24 looked at every single one of them just to
 25 make sure that the law is, and always has

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1 A. Of course I know the date.
 2 Q. Yes.
 3 Does McKesson acknowledge that
 4 21 CFR Section 1301.74 has been in force and
 5 effect since 1971?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Yes.
 8 (McKesson-Hartle Exhibit 8
 9 marked for identification.)
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Just to make sure, I actually
 12 pulled 36 Federal Register 778. I'm going to
 13 have it marked as Exhibit 8.
 14 And I'm not going to ask you to
 15 read the whole thing because I was kind
 16 enough to highlight for you Bates stamp
 17 page 10.
 18 And this is from 1971, and this
 19 is the document in our United States Archives
 20 which adopts the language that we just read
 21 in 21 CFR 1301.74.
 22 Does McKesson acknowledge this
 23 is the law and it has been the law since
 24 1971?
 25 MS. HENN: Objection to form.

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1 been, what it says in Masters Pharmaceutical,
 2 including in 1996 when OxyContin was
 3 launched.
 4 So does McKesson acknowledge
 5 that the CFR provision in McKesson [sic] is
 6 and always has been the law governing
 7 McKesson's conduct since 1971?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: Yes.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. I'm sorry. I misspoke.
 12 So does McKesson acknowledge
 13 that the CFR provision we cited in the
 14 Masters Pharmaceutical case is and always has
 15 been the law governing McKesson's conduct
 16 since 1971?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Can I read what
 19 was in the Masters case again?
 20 (McKesson-Hartle Exhibit 9
 21 marked for identification.)
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Absolutely.
 24 And at this point if you hand
 25 it back to me, this'll be a good point for us

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1 to mark it as Exhibit 9.
 2 A. So your question again?
 3 Q. Yeah.
 4 **Does McKesson acknowledge that**
 5 **the CFR provision cited in Masters**
 6 **Pharmaceutical case, which is 21 CFR**
 7 **1301.74 B, is and always has been the law**
 8 **governing McKesson's conduct since 1971?**
 9 MS. HENN: Objection to form.
 10 **THE WITNESS: Yes.**
 11 MR. FARRELL: And
 12 unfortunately, I'm not going to be
 13 able to get all of my pretty-colored
 14 books on the videotape.
 15 Let the record reflect that the
 16 office of the Federal Register has a
 17 kaleidoscope of colors that it uses
 18 for the front cover of all of its CFR
 19 booklets.
 20 And with that, we'll take our
 21 first break.
 22 VIDEOGRAPHER: The time is
 23 10:23 a.m. We're going off the
 24 record.
 25 (Off the record at 10:23 a.m.)

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Did you talk to your lawyer
 3 about the substance of your testimony during
 4 the break?
 5 MS. HENN: And I'll instruct
 6 the witness not to divulge particulars
 7 of what we talked about.
 8 But you may answer that
 9 question yes or no.
 10 THE WITNESS: Yes.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Okay. What did you talk about?
 13 MS. HENN: I'm going to
 14 instruct the witness not to answer
 15 that question as calling for
 16 privileged information.
 17 MR. FARRELL: Right. But the
 18 deposition protocol and the rules
 19 governing this litigation state that
 20 counsel is not allowed to discuss with
 21 the witness the substance of any
 22 testimony during a break.
 23 And so his answer in the
 24 affirmative indicates that that
 25 occurred, and so I should be allowed

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1 VIDEOGRAPHER: The time is
 2 10:40 a.m., and we're back on the
 3 record.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. I forgot to warn you before the
 6 break, but during the break, did you have any
 7 meaningful conversations with your counsel
 8 about your testimony?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: No.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Did you talk about your
 13 testimony at all?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Not really my
 16 testimony, just --
 17 MS. HENN: And I'm just going
 18 to instruct the witness not to divulge
 19 what we talked about. I don't think
 20 that's an appropriate question. I
 21 think you got the answer you were
 22 looking for.
 23 MR. FARRELL: I think I almost
 24 got the answer I'm looking for.
 25

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1 to inquire about that.
 2 MS. HENN: All right. Well,
 3 let's take a break, and we will
 4 discuss outside and have a privileged
 5 conversation, and we'll see if there's
 6 any answer that he can provide without
 7 divulging privileged information that
 8 I don't believe you're entitled to.
 9 MR. FARRELL: Okay. So you're
 10 going to have a second conversation
 11 during a break about the substance of
 12 his testimony?
 13 MS. HENN: No, Counsel, that's
 14 not what's going to happen. But I'd
 15 like to take a break so that I can
 16 talk to my witness about answering the
 17 question inquiring into discussions
 18 with counsel.
 19 MR. FARRELL: Okay.
 20 MS. HENN: Thank you.
 21 VIDEOGRAPHER: The time is
 22 10:42 a.m. We're going off the
 23 record.
 24 (Off the record at 10:42 a.m.)
 25 VIDEOGRAPHER: The time is

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1 10:46 a.m. We're back on the record.
 2 MR. FARRELL: So what did you
 3 find out?
 4 MS. HENN: Counsel, just to
 5 protect the privilege, I'm just going
 6 to instruct the witness that when he
 7 answered yes to your question and
 8 indicated affirmatively that we'd
 9 talked about the substance of his
 10 testimony, I'm going to ask him to
 11 answer your question and tell you what
 12 he deemed to be the substance of his
 13 testimony, but I'm also going to ask
 14 him not to repeat what I -- my
 15 response.
 16 So let's do that, and we can
 17 discuss if you're still concerned.
 18 Okay?
 19 MR. FARRELL: Not really. Let
 20 me make --
 21 MS. HENN: Go ahead and ask
 22 your question.
 23 MR. FARRELL: Let me make it
 24 even easier.
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1 THE WITNESS: Yes, a general
 2 duty as part of our responsibility,
 3 regulatory responsibilities and
 4 general responsibilities.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. So let's be careful. I want
 7 to -- the wording sometimes makes a
 8 difference.
 9 A. Okay.
 10 Q. Aside from the statute from the
 11 United States Code and the regulations
 12 promulgated by the Department of Justice,
 13 does McKesson acknowledge that it owes a duty
 14 to the general public to prevent diversion of
 15 controlled substances and opium pills into
 16 the illicit market?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: We do feel
 19 strongly about playing a role in
 20 preventing diversion.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. So the answer needs to be
 23 "yes," "no," or "I don't know."
 24 A. Yes.
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Did anything your lawyer say to
 3 you cause you to change or withdraw anything
 4 you said this morning?
 5 A. Absolutely not.
 6 Q. Did anything your lawyer told
 7 you during the break impact or affect your
 8 testimony the rest of the day?
 9 A. No.
 10 Q. That's fair enough.
 11 A. Okay.
 12 Q. Aside from the statutory duty
 13 and the duty that's in the regulation, does
 14 McKesson acknowledge that it has a general
 15 duty to protect the public against diversion
 16 of controlled substances and opium pills?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Could you restate
 19 that, please?
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Does McKesson acknowledge that
 22 it has a general duty to protect the public
 23 against diversion of controlled substances
 24 and opium pills into the illicit market?
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. So your answer is, yes, aside
 3 from the statutory and regulatory provisions,
 4 McKesson acknowledges that it owes a duty to
 5 the general public to prevent diversion of
 6 controlled substances and opium pills into
 7 the illicit market?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: Yes.
 10 (McKesson-Hartle Exhibit 10
 11 marked for identification.)
 12 QUESTIONS BY MR. FARRELL:
 13 Q. I'm going to mark what is going
 14 to be Deposition Exhibit 10. The top
 15 right-hand corner is going to be 1910_01_11.
 16 And I'll show it to you, to counsel, two
 17 extra copies for my new best friends. And
 18 I'm going to give you a little introduction
 19 to this document before you start flipping
 20 through it.
 21 The front is the HathiTrust.
 22 Are you familiar with the HathiTrust?
 23 A. I am not.
 24 Q. I wasn't either until this
 25 litigation.

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1 The HathiTrust is an
 2 organization, nonprofit organization, that
 3 collects public documents and puts them
 4 online.
 5 A. Okay.
 6 Q. This one is from December 1910
 7 and January 1911. That's a long time ago,
 8 isn't it?
 9 A. That would be a long time ago.
 10 Q. 100 years ago.
 11 This predates 1970s US Code and
 12 the 1971 Code of Federal Regulations, agreed?
 13 A. Clearly, yes.
 14 Q. This is a hearing on -- take a
 15 guess.
 16 A. Opioids.
 17 Q. In particular, opium. And it
 18 was about the importation of opium into
 19 America back in the early turn of the
 20 century.
 21 McKesson was around back then,
 22 wasn't they?
 23 A. McKesson was -- has been
 24 around.
 25 Q. They were around back during

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1 United States Constitution, I'm just going to
 2 give you a broad statement.
 3 What this is, is this is
 4 America's first attempt to regulate opium
 5 trafficking in America. And back then there
 6 was a big debate on whether or not this was
 7 something the federal government can do or
 8 it's something that should be left to the
 9 states.
 10 So what the federal government
 11 decided to do was pass the Harrison Narcotic
 12 Act. What that did was it basically taxed
 13 opium as a way for the federal government to
 14 control, and this is a debate about the
 15 taxation on the importation of opium.
 16 A. Okay.
 17 Q. Page 72 is the beginning of the
 18 testimony of Mr. McKesson from McKesson &
 19 Robbins, which is the predecessor and when
 20 McKesson Corporation was in the private hands
 21 of the McKesson family.
 22 You acknowledge that?
 23 A. Correct.
 24 Q. I'm going to have you flip to
 25 page 75. And if you look near the top, one

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1 this time frame, agreed?
 2 A. Agreed.
 3 Q. So why do you think I'm
 4 bringing this up?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: I don't want to
 7 speculate why I think you're bringing
 8 it up.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Guess who testified during this
 11 hearing.
 12 MS. HENN: Objection to form.
 13 THE WITNESS: Don't know.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Take a wild guess.
 16 MS. HENN: Same objection.
 17 THE WITNESS: I don't have
 18 honestly a guess.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Mr. McKesson.
 21 So what I'm going to have you
 22 flip to, is I'm going to have you flip to
 23 page 72.
 24 Now, without going through the
 25 entire boring history of commerce clause, the

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1 of congressmen asks Mr. McKesson about
 2 whether or not he supports this bill. And
 3 I'm going to give you an opportunity to read
 4 to yourself the provision before I ask you to
 5 read it aloud.
 6 A. Which specific part do you want
 7 me to start and end at?
 8 Q. The first time it says
 9 "Mr. McKesson."
 10 A. Okay.
 11 Q. He's asked about whether or not
 12 he's in favor of the bill.
 13 Do you see that?
 14 A. I do.
 15 Q. And his answer is, "Yes, very
 16 much in favor of the bill."
 17 Do you see that provision?
 18 A. I do.
 19 Q. Now, would you please begin
 20 reading the next sentence?
 21 A. Out loud?
 22 Q. Please.
 23 A. "Our firm was founded in 1832,
 24 and we have been ever since against the sale
 25 of habit-forming drugs and all that kind of

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1 thing. Orders which have come to us from
 2 suspicious people we have put in the hands of
 3 the proper authorities for tracing and
 4 prosecution, if necessary."
 5 Q. So you agree with me that even
 6 before the enactment of the Controlled
 7 Substances Act and the Code of Federal
 8 Regulations, which we discussed earlier this
 9 morning, is that McKesson, Mr. McKesson
 10 himself, was acknowledging that if they have
 11 suspicious people, they're going to turn it
 12 over to law enforcement for prosecution,
 13 agreed?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Agreed based on
 16 what I'm reading in this document.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. And this duty predates the US
 19 Code and predates the Code of Federal
 20 Regulations, agreed?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: Agreed.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. So would you agree, would
 25 McKesson agree, that it owes a common law

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1 Q. When did McKesson begin the
 2 business of selling opium pills?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I do not know.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. At some point in time
 7 McKesson's philosophy changed, and it went
 8 from not selling habit-forming drugs to now
 9 selling habit-forming drugs, agreed?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: Agreed.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. Has McKesson considered, given
 14 the presence of the opioid epidemic in
 15 America, perhaps returning to the stance of
 16 1910 of its founder, Mr. McKesson?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Again, I'm not
 19 aware of that. Can't answer that
 20 question.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Well, you could choose not to
 23 sell opium pills anymore in America, could
 24 you not?
 25 A. You could choose to.

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1 duty to the American public to prevent
 2 diversion if it's engaged in the distribution
 3 of controlled substances, including opium
 4 pills, to prevent their diversion into the
 5 illicit market?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Can you ask it in
 8 a shorter version there?
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Probably not.
 11 Does McKesson acknowledge it
 12 owes a common law duty to the American public
 13 to prevent the diversion of controlled
 14 substances, including opium pills, into the
 15 illicit market?
 16 MS. HENN: Objection to form.
 17 THE WITNESS: Yes.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Now, the first part of the
 20 sentence, it kind of grabbed my attention.
 21 It says, "McKesson has ever since been
 22 against the sale of habit-forming drugs."
 23 And this was in 1910.
 24 Do you see that?
 25 A. I see that.

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1 Q. But McKesson chooses to
 2 continue to sell opium pills in America,
 3 despite the fact that we have an opiate pill
 4 epidemic?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: We do.
 7 (McKesson-Hartle Exhibit 11
 8 marked for identification.)
 9 QUESTIONS BY MR. FARRELL:
 10 Q. The next exhibit we're going to
 11 have marked as Exhibit 11. In the top
 12 right-hand corner, this is 1996, 04, 01.
 13 We've acknowledged that in
 14 1971, Department of Justice adopted CFR
 15 provision 1301.74, agreed?
 16 A. Agree.
 17 Q. And then we went through and
 18 it's the law today, agreed?
 19 A. Agreed.
 20 Q. It's the law that was
 21 referenced in the Masters Pharmaceutical
 22 case, agreed?
 23 A. Agreed.
 24 Q. And it hadn't changed through
 25 all those colorful books I showed you,

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1 agreed?

2 MS. HENN: Objection to form.

3 THE WITNESS: Agreed.

4 QUESTIONS BY MR. FARRELL:

5 Q. This is a specific year.

6 Can you tell me what year it

7 is?

8 A. 1996.

9 Q. Why do you think I picked this

10 year?

11 MS. HENN: Objection to form.

12 THE WITNESS: I'm not -- I'm

13 not sure.

14 QUESTIONS BY MR. FARRELL:

15 Q. What happened in 1996 that

16 changed the face of opioid sales in America?

17 MS. HENN: Objection to form.

18 THE WITNESS: I'm not

19 100 percent sure. I'd be speculating.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, McKesson's in the

22 business of selling opium pills, correct?

23 MS. HENN: Objection to form.

24 THE WITNESS: As part of

25 controlled substances, yes.

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1 longer because, as you can see, this next

2 exhibit is a little bit thicker.

3 (McKesson-Hartle Exhibit 12

4 marked for identification.)

5 QUESTIONS BY MR. FARRELL:

6 Q. We're going to have it marked

7 as Exhibit 12.

8 MR. FARRELL: So for the

9 record, the top right-hand corner is

10 2000_07. The bottom right-hand

11 corner, for all the fans listening on

12 the telephone, is an actual Bates

13 stamp number. And while this was

14 previously produced to some Attorney

15 Generals, it was also produced in the

16 MDL, so I have an MDL number. And

17 it's MCKMDL00337660.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, does McKesson recognize

20 this document?

21 A. I do.

22 Q. And has McKesson reviewed this

23 document in preparation for today's

24 testimony?

25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:

2 Q. And in 1996, business began

3 hopping, agreed?

4 MS. HENN: Objection to form.

5 THE WITNESS: I'm not sure. I

6 don't -- I don't -- I can't answer

7 that. I don't know what the business

8 was before or --

9 QUESTIONS BY MR. FARRELL:

10 Q. That's fair enough.

11 A. Yeah.

12 Q. In 1996, I'll represent to you,

13 OxyContin was launched. So all I'm trying to

14 establish on page 2 of the exhibit is that

15 under 1301.74 B, the same law was in place

16 when OxyContin was launched.

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. Agreed?

20 A. Understood.

21 Q. Not understood --

22 A. Agreed.

23 Q. Yeah.

24 A. Sorry.

25 Q. This might take a little bit

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1 THE WITNESS: I have.

2 QUESTIONS BY MR. FARRELL:

3 Q. What is this document?

4 A. This is the operational manual

5 for how controlled substances are handled

6 within McKesson.

7 Q. And what was the date of

8 enactment?

9 A. I believe July of 2000.

10 Q. Okay. Prior to July of 2000,

11 what was the policy at McKesson regarding the

12 distribution of controlled substances?

13 MS. HENN: Objection to form.

14 Outside the scope.

15 THE WITNESS: I can't speak to

16 that.

17 QUESTIONS BY MR. FARRELL:

18 Q. To your understanding and

19 belief sitting here today as the

20 representative of McKesson, is this document

21 the earliest version of the controlled

22 substance monitoring program adopted by the

23 company?

24 MS. HENN: Same objections.

25 THE WITNESS: I can't say for

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1 certain this is the only one I know
 2 of.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. I'm not asking you to --
 5 A. Yeah.
 6 Q. -- foreclose the existence of
 7 anything else.
 8 A. Right.
 9 Q. Sitting here today as the
 10 McKesson designee for the 30(b)(6)
 11 deposition, what we're showing you here as
 12 Exhibit 12 is the earliest version you're
 13 aware of for McKesson's controlled substance
 14 monitoring program?
 15 MS. HENN: Objection to form.
 16 Outside the scope.
 17 THE WITNESS: Correct, that I'm
 18 aware of.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. So when I asked you in the
 21 30(b)(6) deposition notice to testify
 22 regarding all past and present suspicious
 23 order policies and procedures, this, to the
 24 best of your knowledge, is the first time
 25 McKesson has adopted a policy and procedure

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1 Outside the scope.
 2 MR. FARRELL: Counsel, it seems
 3 to be directly within point A of the
 4 30(b)(6) notice.
 5 MS. HENN: We can disagree
 6 about that.
 7 MR. FARRELL: Well, I'll read
 8 it out loud.
 9 "Your past, present, suspicious
 10 orders monitoring system, SOMS
 11 program, policies and procedures."
 12 MS. HENN: And I'll just object
 13 again to the question as outside the
 14 scope.
 15 And to respond to you,
 16 Mr. Farrell, the -- Special Master
 17 Cohen has made rulings about the
 18 proper time frame for discovery, and
 19 so our position is that asking about
 20 the annals of McKesson Corporation is
 21 outside the scope.
 22 But he can answer your question
 23 if you want to state it again.
 24 MR. FARRELL: That's a fair
 25 point.

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1 in compliance with the United States Code
 2 that we discussed this morning and the Code
 3 of Federal Regulations we discussed this
 4 morning.
 5 MS. HENN: Objection.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Agreed?
 8 MS. HENN: Objection to form.
 9 Outside the scope.
 10 THE WITNESS: I can't -- I
 11 can't speak to things that may have
 12 happened prior to this date that maybe
 13 weren't put in this format and written
 14 down on paper, but on paper, this is
 15 the one that I recognize.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. I need to be a little more
 18 clear about it.
 19 Are you aware of any other
 20 piece of paper in the annals of McKesson
 21 Corporation that talk about the duty to
 22 comply with the United States Code and the
 23 Code of Federal Regulations regarding the
 24 distribution of controlled substances?
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. So sitting here today as
 3 McKesson Corporation, you're unaware of any
 4 piece of paper that predates Exhibit 12, but
 5 there may be; is that fair?
 6 MS. HENN: Objection to form.
 7 Outside the scope.
 8 THE WITNESS: That's fair. I'm
 9 unaware, but I -- there may be.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. So you don't have any basis in
 12 fact, as the McKesson designee today, to
 13 discuss what the policies and procedures were
 14 for McKesson related to the distribution of
 15 controlled substances and opium pills between
 16 '96 when OxyContin was launched and the
 17 adoption of Section 55, Exhibit 12, in July
 18 of 2000; is that a fair statement?
 19 MS. HENN: Objection to form.
 20 Outside the scope.
 21 THE WITNESS: That's a fair
 22 statement.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. So what we're looking at is
 25 Exhibit 12.

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1 Can you tell me the name of
 2 this document?
 3 A. It's the drug operation manual.
 4 It's been -- but it's known as Section 55,
 5 often within McKesson, which is also in the
 6 title.
 7 Q. And as of July 2000, is there
 8 any other document related to the
 9 distribution of controlled substances in the
 10 prevention of diversion other than
 11 Section 55?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: I'm not following
 15 your question 100 percent.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Okay. Are you a sports fan?
 18 A. I am.
 19 Q. What's your favorite sport?
 20 A. Wrestling.
 21 Q. Very good.
 22 How many rules are in the
 23 wrestling rule book?
 24 A. I couldn't even guess. I don't
 25 know.

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1 first paragraph under general, I'd like you
 2 to take a minute and read that. And I've
 3 never liked just having you -- or just spring
 4 that on you. I want you to kind of digest
 5 it.
 6 A. Just the first paragraph?
 7 Q. Just the first paragraph.
 8 A. I read it.
 9 Q. All right. Now, I'm going to
 10 have you read aloud just the first sentence,
 11 and I'm going to compliment you that all of
 12 your testimony this morning is spot-on with
 13 that very first sentence. I couldn't trip
 14 you up at all. So I'd like you to read the
 15 first sentence aloud, please.
 16 A. "The aim of the Controlled
 17 Substance Act is to prevent diversion of
 18 abusable substances into illicit traffic
 19 while ensuring their availability for
 20 legitimate medical purposes."
 21 Q. So again, we're back to this
 22 theme that the Controlled Substances Act was
 23 intended to prevent diversion, agreed?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: Agreed.

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1 Q. But the wrestling rule book is
 2 intended to be comprehensive, agreed?
 3 A. I would agree.
 4 Q. If you're a referee, how many
 5 different books do you have to read to know
 6 the rules of wrestling on the mat?
 7 A. Should be one.
 8 Q. Is that the same for this
 9 document, Exhibit 12? Is this intended to be
 10 the rule book for the distribution of
 11 controlled substances for McKesson
 12 Corporation?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: For which time
 15 frame?
 16 QUESTIONS BY MR. FARRELL:
 17 Q. July 2000 until -- and I'll
 18 give you a hint -- the 2007 Lifestyles
 19 program.
 20 MS. HENN: Objection to form.
 21 Outside the scope.
 22 THE WITNESS: I'm not aware of
 23 another one.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. All right. On page 1, the very

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1 QUESTIONS BY MR. FARRELL:
 2 Q. And in July of 2000, McKesson
 3 adopted a policy to accomplish that
 4 objective; is that fair?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: They formalized a
 7 policy within -- within this document.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. That's the purpose of this
 10 document?
 11 A. Right.
 12 Q. Who wrote this document?
 13 A. I'm not 100 percent sure
 14 exactly who wrote it within the McKesson
 15 team, but a combination of people.
 16 Q. Whose document is this?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: McKesson's.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Is this a document that is kept
 21 in the regular course of business for
 22 McKesson?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: It is.
 25

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Is this a true and authentic
 3 copy of Section 55 of McKesson's policy?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: I know it's
 6 undergoing some revisions.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Well, not as of July 2000.
 9 A. Oh, can you say it again?
 10 Q. Yeah. This document, sitting
 11 here today --
 12 A. Right.
 13 Q. -- is this a document that as
 14 of July of the year 2000 was a document
 15 created by McKesson in the course of
 16 conducting its regular business activities?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Yes.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. So if I hold this document up
 21 in a courtroom I can say this is McKesson's
 22 drug operations manual related to the
 23 distribution of controlled substances that
 24 was adopted in July of 2000?
 25 A. Yes.

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1 **THE WITNESS: To recite, it**
 2 **says "extremely important."**
 3 QUESTIONS BY MR. FARRELL:
 4 **Q. And why?**
 5 **A. To prevent the diversion of**
 6 **controlled substances.**
 7 Q. I'm going to have you now flip
 8 to page 27. I'll give you a minute to kind
 9 of --
 10 A. The whole --
 11 Q. Yeah, you can just glance it.
 12 We're going to walk through it a little bit.
 13 We can start with the heading,
 14 paragraph A. What's paragraph A, the very
 15 top of the page? What's it say?
 16 Oh, wait a minute, I'm sorry.
 17 A. Am I on the right page here?
 18 Q. I was on the wrong page.
 19 Page 27, paragraph G. Will you
 20 read the first paragraph?
 21 A. The heading or the entire --
 22 the first --
 23 Q. You can read the heading if
 24 you'd like.
 25 A. "DEA continuing education"?

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1 Q. Now, the second sentence,
 2 starting with "The Drug Enforcement
 3 Administration," can you read that sentence
 4 aloud?
 5 A. Sure.
 6 "The Drug Enforcement
 7 Administration strictly interprets the law
 8 and regulations and has imposed significant
 9 fines for technical errors in completing
 10 forms and keeping records."
 11 Q. So the DEA, even as of July
 12 2000, took the Controlled Substances Act very
 13 seriously, and McKesson acknowledges that,
 14 agreed?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: Correct, or
 17 agreed.
 18 QUESTIONS BY MR. FARRELL:
 19 **Q. Now, would you read the last**
 20 **sentence?**
 21 **A. "It's extremely important that**
 22 **McKesson employees comply fully with the**
 23 **regulations and the following guidelines."**
 24 **Q. How important is it?**
 25 MS. HENN: Objection to form.

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1 That piece?
 2 Q. Yes. And then there's another
 3 word underneath that.
 4 A. "Documentation."
 5 Q. What does documentation mean?
 6 A. Is you document something on
 7 paper.
 8 Q. Okay. And will you read the
 9 sentence, please?
 10 A. "All compliance training
 11 sessions, formal and informal, held in your
 12 distribution center must be logged and
 13 documented on the DEA continuing education
 14 report."
 15 Q. What does that mean?
 16 MS. HENN: Objection to form.
 17 Outside the scope.
 18 THE WITNESS: It means you
 19 should document the training that's
 20 conducted related to compliance.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Okay. Is there a DEA
 23 continuing education report that you're aware
 24 of?
 25 A. Not that I'm aware of.

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1 Q. You haven't seen any such
 2 thing?
 3 A. I don't believe I have, no.
 4 Q. But if we ask for it, it's
 5 something McKesson could theoretically go and
 6 look for?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 THE WITNESS: Theoretically.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. All right. Because the policy
 12 seems to indicate you guys have this
 13 documentation of compliance training
 14 sessions. And I'll admit to you I haven't
 15 seen any, so I was wondering if you'd seen
 16 any.
 17 A. I have not.
 18 **Q. Now, if you flip to the next**
 19 **page, page 28, at the top it's paragraph A.**
 20 **And will you read the title of paragraph A?**
 21 **A. "Detecting suspicious orders."**
 22 Q. And what's it say over there on
 23 the right, that number?
 24 A. 1301.74.
 25 Q. What do you think that is?

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1 **says.**
 2 QUESTIONS BY MR. FARRELL:
 3 **Q. You got to follow the law?**
 4 MS. HENN: Objection to form.
 5 **THE WITNESS: Right.**
 6 QUESTIONS BY MR. FARRELL:
 7 **Q. And if McKesson doesn't follow**
 8 **the law, that makes its conduct unlawful?**
 9 MS. HENN: Objection to form.
 10 **THE WITNESS: Yes.**
 11 QUESTIONS BY MR. FARRELL:
 12 Q. And McKesson has acknowledged
 13 that as early as July of 2000?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: In this document,
 17 yes.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. The next sentence says, "It is
 20 left to the distributor to define what
 21 constitutes an unusual or suspicious order."
 22 Do you see that sentence?
 23 A. I do.
 24 Q. And to comply with this,
 25 McKesson has adopted this policy; is that

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1 A. That's from the CFR.
 2 Q. All right. And then under
 3 paragraph 1, you see where it says, "DEA
 4 regulation defines suspicious orders as
 5 follows"?
 6 A. I do.
 7 Q. Will you read what's in the
 8 quotation marks?
 9 A. "Suspicious orders include
 10 orders of unusual size, orders deviating
 11 substantially from a normal pattern and
 12 orders of unusual frequency."
 13 Q. Now, if you go down to the
 14 paragraph that starts "recent cases," do you
 15 see that?
 16 **Will you read the first**
 17 **sentence?**
 18 **A. "Recent cases indicate that DEA**
 19 **will seek large penalties from distributors**
 20 **who fail to comply with this regulation."**
 21 **Q. What do you interpret that to**
 22 **mean?**
 23 MS. HENN: Objection. Outside
 24 the scope.
 25 **THE WITNESS: Exactly what it**

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1 fair?
 2 MS. HENN: Objection to form.
 3 Outside the scope.
 4 THE WITNESS: Yes.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Now, in here it says at the
 7 very bottom of the -- it says, "The following
 8 reports are produced: The Drohan data
 9 reports."
 10 Do you see that, the Drohan
 11 Data Center reports?
 12 A. I do see that.
 13 Q. What are the Drohan Data Center
 14 reports?
 15 MS. HENN: Objection. Outside
 16 the scope.
 17 THE WITNESS: They're
 18 multiple -- that's the -- they're
 19 multiple reports that are generated
 20 from the system.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Okay. Is that system still in
 23 place, to your knowledge?
 24 A. Not to my knowledge.
 25 Q. Who would I ask if I was going

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1 to ask questions about the reports in the
 2 Drohan Data Center?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: Somebody in our
 5 IT department.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Okay. Flip to the next page,
 8 page 29. Little A talks about controlled
 9 substances sales reports.
 10 Do you see that?
 11 A. I do.
 12 Q. That's a document that should
 13 exist as of July of 2000, agreed?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: Agreed.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Little B says, "Controlled
 19 substance customer purchase report."
 20 That's a document that should
 21 exist as of July of 2000, agreed?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: Agreed.
 25

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1 Outside the scope.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. Agreed?
 4 A. Can you rephrase that in terms
 5 of...
 6 Q. Yeah. We're talking about
 7 under paragraph A, which is "Detecting
 8 Suspicious Orders."
 9 A. Agreed.
 10 Q. Now, on page 30 there,
 11 paragraph B, "Reporting," it says, "The
 12 Drohan Data Center will generate the daily
 13 controlled substance suspicious order warning
 14 reports every two hours, 24 hours a day."
 15 Do you see that?
 16 A. I see that.
 17 Q. Have you seen any of those
 18 reports?
 19 MS. HENN: Objection. Outside
 20 the scope.
 21 THE WITNESS: I have.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Did you review them in
 24 anticipation of today's deposition?
 25 A. I did.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Little C says, "Daily
 3 controlled substance suspicious order warning
 4 report."
 5 That's a document that should
 6 exist as of July 2000, agreed?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 THE WITNESS: Agreed.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Next page, little D, "Monthly
 12 controlled substance suspicious purchases
 13 report."
 14 That's a document that should
 15 exist as of July 2000, agreed?
 16 MS. HENN: Objection to form.
 17 Outside the scope.
 18 THE WITNESS: Agreed.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. And little E, "Monthly ARCOS
 21 customer recap variance." Again, another
 22 document that should exist as of July 2000 as
 23 part of the McKesson suspicious order
 24 detecting policy.
 25 MS. HENN: Objection to form.

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1 Q. And how far back did you review
 2 them?
 3 A. I'm not certain of the dates on
 4 the examples that I had.
 5 Q. How old?
 6 A. In the early 2000s, I believe.
 7 I'd have to look.
 8 Q. Did those reports help inform
 9 you of the policies and procedures for
 10 McKesson in preparation for today's
 11 deposition?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: They did.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. And did they help refresh your
 16 recollection in preparation for today's
 17 testimony?
 18 MS. HENN: Objection to form.
 19 THE WITNESS: They did.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Are those documents important
 22 to McKesson for purposes of complying with
 23 its duties under the Controlled Substances
 24 Act beginning in July of 2000?
 25 MS. HENN: Objection to form.

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1 Outside the scope.
 2 THE WITNESS: Can you say it
 3 again one more time?
 4 QUESTIONS BY MR. FARRELL:
 5 Q. Are those documents important
 6 to McKesson for purposes of complying with
 7 its duties under the Controlled Substances
 8 Act beginning in July of 2000?
 9 MS. HENN: Objection to form.
 10 Outside the scope.
 11 THE WITNESS: They are
 12 important.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Now, this is the interesting
 15 thing. The very next sentence, can you read
 16 the next sentence?
 17 A. Right after the "24 hours"? Is
 18 that where we stopped?
 19 Q. Yes, sir.
 20 A. Okay. "This report can be
 21 faxed to your local DEA office before the
 22 order is shipped."
 23 Q. So in July 2000, was McKesson
 24 still shipping orders that it detected as
 25 suspicious?

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1 Do you see that?
 2 A. I see that.
 3 Q. So what that means is, is if
 4 your system identifies or detects a
 5 suspicious order, there's no judgment
 6 subjective involved. You report it to the
 7 DEA as a matter of statistical fact, agreed?
 8 MS. HENN: Objection to form.
 9 Outside the scope.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Would you like me to restate
 12 it?
 13 A. Yeah, please.
 14 Q. What this means is that in July
 15 of 2000, if McKesson's system detected a
 16 suspicious order, it is a statistical fact
 17 and it is to be reported to the DEA, agreed?
 18 MS. HENN: Objection to form.
 19 Outside the scope.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. That's what it says?
 22 MS. HENN: Same objections.
 23 THE WITNESS: From what I
 24 understand, there was -- you know, the
 25 way I interpret this is that the

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1 MS. HENN: Objection to form.
 2 Outside the scope.
 3 THE WITNESS: From what I
 4 understand, there was a review of
 5 these reports before they were
 6 shipped.
 7 QUESTIONS BY MR. FARRELL:
 8 **Q. So my question is, is if an**
 9 **order gets picked up as a suspicious order**
 10 **under McKesson's detection system in July**
 11 **of 2000, was McKesson reporting it to the DEA**
 12 **but still shipping it?**
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 **THE WITNESS: Let me restate.**
 16 **Reporting to DEA and still shipping**
 17 **it? I believe so.**
 18 QUESTIONS BY MR. FARRELL:
 19 **Q. So the answer is yes?**
 20 **A. Yes.**
 21 Q. The next sentence says, "It
 22 does not rely on an individual's judgment or
 23 knowledge to determine reporting
 24 appropriateness but rather on statistical
 25 fact."

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1 report itself is statistically driven,
 2 but then there are -- there are
 3 reviews done by McKesson personnel to
 4 determine if they are suspicious or
 5 not.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. That's not what this sentence
 8 says, though, is it?
 9 A. Not specifically.
 10 Q. It says the opposite, agreed?
 11 MS. HENN: Objection to form.
 12 Outside the scope.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. I'm just talking about what
 15 this document says.
 16 A. It doesn't say exactly what I
 17 said.
 18 Q. And I understand the practice
 19 may be different than a policy written in
 20 July of 2000. I'm just simply asking on
 21 Section 55, the operations manual, it says,
 22 "There is no individual judgment in
 23 determining when to report."
 24 Agreed?
 25 A. It says "reporting

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1 appropriateness," not when to.
 2 Q. Instead, it's a statistical
 3 fact when you report to the DEA?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: That's not how
 7 I'd characterize the statistical fact,
 8 when to.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Well, it says, "It does not
 11 rely on an individual's judgment or knowledge
 12 to determining [sic] reporting
 13 appropriateness but rather on statistical
 14 fact."
 15 That's what it says, agreed?
 16 A. Agreed.
 17 Q. So if, in fact, a daily
 18 controlled substance suspicious order warning
 19 report is generated, based on statistical
 20 facts, it should be reported to the DEA?
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 THE WITNESS: Correct.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. And it was the policy of

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1 order is canceled or cut back, do not fax to
 2 the DEA."
 3 Do you see that?
 4 A. B, I see that.
 5 Q. I'll give you a chance to catch
 6 up because I don't want to be unfair about
 7 it. The last sentence.
 8 What this says under B, you fax
 9 a copy immediately to your DEA district
 10 office, and then if you cancel the suspicious
 11 order or cut it back, you do not report it to
 12 the DEA.
 13 That's what it says, correct?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: In the context of
 16 an ordering error or an -- a
 17 duplicate, it says that.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Okay. So you think this
 20 applies just -- if an order is duplicated or
 21 copied as a clerical error, you don't have to
 22 report it?
 23 A. Not 100 percent certain, but
 24 that's how I would interpret that.
 25 Q. So if McKesson received an

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1 McKesson that even if it was reporting a
 2 suspicious order, it was still shipping?
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. It's what the policy says?
 7 MS. HENN: Same objections.
 8 THE WITNESS: Can you say that
 9 again or point me to the policy
 10 section you're referring to?
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Yes.
 13 It says, "This report can be
 14 faxed to your local DEA district office
 15 before the order is shipped."
 16 It does not say, "Halt the
 17 order." It says, "Report it before
 18 shipping," agreed?
 19 MS. HENN: Objection to form.
 20 Outside the scope.
 21 THE WITNESS: It says it can
 22 be, right, agreed.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Now, go to page 31 under
 25 Section 2, the very last sentence. "If an

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1 order from a customer for a million pills and
 2 then cut it back to ten pills, would McKesson
 3 still have to report that order?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: I think it
 7 depends on the circumstances. I...
 8 QUESTIONS BY MR. FARRELL:
 9 Q. On page 32, the paragraph in
 10 bold that states, "Discontinue," I'm going to
 11 read it aloud.
 12 "Discontinue faxing the daily
 13 controlled substance suspicious order warning
 14 report only," and it's underlined "only," "if
 15 you receive in writing a notice from your
 16 district DEA office telling you they do not
 17 want them."
 18 Do you see that sentence?
 19 A. I do.
 20 Q. Are you aware of any such
 21 writing in the possession of McKesson?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: Aware of a formal
 25 notice from DEA saying that they don't

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1 want them?

2 QUESTIONS BY MR. FARRELL:

3 Q. Correct.

4 A. Aware of informal discussions

5 and communications but maybe not formal.

6 Q. So Mr. Boggs, Gary Boggs,

7 testified a couple weeks ago in this case as

8 the 30(b)(6) designee for communications with

9 the DEA. He testified he was not aware of

10 any such thing.

11 I'm asking you today, as the

12 McKesson designee for the suspicious order

13 monitoring program, whether or not you're

14 aware under Section 55 if McKesson received

15 in writing any notice from the DEA telling

16 them they don't want the reports.

17 MS. HENN: Objection to form.

18 Outside the scope.

19 THE WITNESS: I'm not aware.

20 QUESTIONS BY MR. FARRELL:

21 Q. Why would you have in your

22 policy the insistence that such a directive

23 be in writing?

24 MS. HENN: Objection to form.

25 Outside the scope.

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1 THE WITNESS: The actual

2 suspicious order report or a

3 verification that they received --

4 QUESTIONS BY MR. FARRELL:

5 Q. Verification.

6 A. A verification that DEA -- that

7 we -- I have not seen those reports of

8 verifications.

9 **Q. Now, at the very bottom of the**

10 **page, page 4, do you see what it -- it says**

11 **"Continued Reporting Responsibility"?**

12 **A. I do.**

13 **Q. Will you read that aloud, first**

14 **sentence?**

15 **A. The first -- okay.**

16 **"Forwarding these reports to**

17 **DEA does not relieve the distribution center**

18 **of responsibility to review the reports and**

19 **note order quantities of unusual size."**

20 **Q. So you acknowledge, sitting**

21 **here today as McKesson, that simply**

22 **submitting reports to the DEA does not comply**

23 **with the US Code or the Code of Federal**

24 **Regulations?**

25 MS. HENN: Objection to form.

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1 THE WITNESS: Could you ask the

2 question a different way?

3 Why would we request that it be

4 in writing?

5 QUESTIONS BY MR. FARRELL:

6 Q. Yes.

7 A. To formalize things,

8 documentation.

9 Q. Under paragraph F it says, "The

10 monthly controlled substance suspicious

11 purchase reports and the monthly ARCOS

12 customer recap variance must be sent

13 certified mail, return receipt requested."

14 Do you see that?

15 A. I see that.

16 Q. Why would McKesson, in its

17 Section 55 policy, want confirmation that it

18 was sending reports to the DEA?

19 MS. HENN: Objection to form.

20 Outside the scope.

21 THE WITNESS: To verify that

22 they received them.

23 QUESTIONS BY MR. FARRELL:

24 Q. Have you seen such reports?

25 MS. HENN: Objection to form.

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1 Outside the scope.

2 **THE WITNESS: Agree.**

3 QUESTIONS BY MR. FARRELL:

4 **Q. You have a duty to review and**

5 **note orders of unusual size?**

6 **A. It's part of our -- this**

7 **document program, yes.**

8 Q. Page 33. It's talking about

9 controlled substances, and it says under

10 paragraph 5, "Controlled substances and

11 List I product order fillers must be aware of

12 our responsibilities. They are expected to

13 report to management any unusual purchase

14 request before orders are filled."

15 Do you see that?

16 A. I do see that.

17 Q. So again, it was the policy of

18 McKesson as of July of 2000 that they were

19 still going to ship suspicious orders as long

20 as they got reported?

21 MS. HENN: Objection to form.

22 Outside the scope.

23 THE WITNESS: Can you rephrase

24 that for me, please?

25

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Do you agree that it was
 3 McKesson's policy as of July 2000 that they
 4 were still going to ship suspicious orders as
 5 long as the order got reported to the DEA?
 6 MS. HENN: Objection to form.
 7 Outside the scope.
 8 THE WITNESS: One more time,
 9 please.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Reading this, it appears the
 12 July 2000 policy of McKesson was that they
 13 were shipping suspicious orders.
 14 Can you confirm that?
 15 MS. HENN: Objection to form.
 16 Outside the scope.
 17 THE WITNESS: I don't know if I
 18 can confirm. I've not seen what was
 19 shipped, but -- I'm not sure how to
 20 answer your question 100 percent.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. My question is, is under the
 23 Section 55 policy adopted by McKesson --
 24 A. Right.
 25 Q. -- in July of 2000, you were

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1 interest at large?
 2 A. Correct.
 3 Q. Turn to page 117, please. The
 4 bottom paragraph, B, references a
 5 "distribution center quarterly DEA
 6 checklist."
 7 A. Sorry, I was a little bit
 8 behind because of water there.
 9 Q. It's okay.
 10 Bottom of the page, paragraph
 11 B, "Distribution center quarterly DEA
 12 checklist."
 13 Do you see that?
 14 A. I see that.
 15 Q. Have you seen any such
 16 checklists?
 17 A. I believe I've seen the example
 18 in the -- in this document but not filled-out
 19 ones.
 20 Q. And what you're referencing is
 21 at the end, from pages 123 to 130, is an
 22 exemplar of the checklist.
 23 A. If exemplar means example, yes.
 24 Q. So as of July of 2000, McKesson
 25 had a policy and procedure for a quarterly

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1 shipping suspicious orders after reporting
 2 them to the DEA?
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 THE WITNESS: Yes.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Under paragraph 6, "Retail
 8 account managers responsibilities," it says,
 9 "Our retail account managers can provide
 10 another source of useful information."
 11 Will you read the next
 12 sentence?
 13 A. "In fact, reports of controlled
 14 substance diversion are not only a necessary
 15 part of an overall security program but also
 16 serve the public interest at large."
 17 Q. Does McKesson agree and
 18 acknowledge this fact?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Yes.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. This goes back to what we were
 23 talking about earlier, is that aside from
 24 your regulatory responsibilities, you also
 25 perform a function that serves the public

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1 internal audit or assessment based on what
 2 it's called the quarterly DEA checklist for
 3 each distribution center, agreed?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: Agreed.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Sitting here today, though, you
 9 have not seen any such document?
 10 A. I've not reviewed a completed
 11 one. I've seen one.
 12 Q. Do they still exist?
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 THE WITNESS: I'm not sure.
 16 (McKesson-Hartle Exhibit 13
 17 marked for identification.)
 18 QUESTIONS BY MR. FARRELL:
 19 Q. I'm going to have marked as the
 20 next sequential exhibit Exhibit 13. The
 21 document in the right-hand corner is
 22 2001_0828.
 23 Again, this is from the
 24 HathiTrust.
 25 A. I see that.

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1 Q. It's a Congressional record
 2 from 2001.
 3 Can you read the title of the
 4 Congressional investigation?
 5 A. "OxyContin: Its use and abuse:
 6 Hearing before the Subcommittee and Oversight
 7 and Investigations of the Committee on Energy
 8 and Commerce, House of Representatives, 107th
 9 Congress, First Session, August 28th of
 10 2001."
 11 Q. Does McKesson acknowledge that
 12 the use and abuse of OxyContin was on the
 13 national radar at least as early as
 14 August 28, 2001, with a Congressional
 15 hearing?
 16 MS. HENN: Objection to form.
 17 THE WITNESS: Yes.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. I'm going to have you flip to
 20 page 8. This is the introductory statement
 21 from the chairman, James Greenwood, on the
 22 Subcommittee on Oversight and Investigations.
 23 He's from Pennsylvania.
 24 Two-thirds of the way down, the
 25 sentence says, "These actions, though

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1 2001, the number of prescriptions went from
 2 300,000 to almost 6 million. So the
 3 OxyContin business was a-booming, wasn't it?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: It increased
 7 significantly.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. And McKesson was amongst the
 10 distributors that were delivering the pills
 11 from Purdue Pharma to the pharmacies?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: We were.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Do you believe that the
 16 increase from 300,000 prescriptions to 6
 17 million is an increase of unusual size?
 18 MS. HENN: Objection to form.
 19 Outside the scope.
 20 THE WITNESS: Could you ask
 21 that again?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. You go from 300,000
 24 prescriptions to 6 million in five years. Do
 25 you think that that is an unusual increase?

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1 commendable, also appear long overdue."
 2 Do you see that sentence?
 3 A. I do see that.
 4 Q. Will you begin reading,
 5 starting with "according"?
 6 A. "According to DEA, the number
 7 of oxycodone-related deaths has increased
 8 400 percent since 1996, the same time period
 9 in which the annual number of prescriptions
 10 for OxyContin has risen from approximately
 11 300,000 to almost 6 million."
 12 Q. And how did these
 13 prescriptions -- how did these pills get from
 14 Purdue Pharma, who makes OxyContin, to the
 15 pharmacies?
 16 MS. HENN: Objection to form.
 17 THE WITNESS: After being
 18 prescribed by a doctor --
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Yes.
 21 A. -- and sent to pharmacies --
 22 Q. Yes.
 23 A. -- or other by distributors.
 24 Q. Right.
 25 So between 1996 and the year

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1 MS. HENN: Objection to form.
 2 Outside the scope.
 3 THE WITNESS: It appears to be
 4 a significant increase. I don't -- I
 5 don't have the context of before --
 6 everything before, but it's a large
 7 increase.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Well, assuming in 1996 there
 10 were 300,000 prescriptions and five years
 11 later there were 6 million, would you --
 12 would you characterize that increase as
 13 unusual?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: I don't know if I
 17 would characterize it as -- it's
 18 significant.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Significant enough to get
 21 McKesson's attention?
 22 MS. HENN: Objection to form.
 23 THE WITNESS: Significant
 24 enough.
 25

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Yes?
 3 A. Yes.
 4 Q. Now, two paragraphs down it
 5 says, "In its testimony today" --
 6 Do you see that paragraph?
 7 A. I do.
 8 Q. -- "Purdue Pharma will argue
 9 that the death figures heralded by newspapers
 10 nationwide are inaccurate and are the prime
 11 mover of the negative hype surrounding
 12 OxyContin."
 13 Do you see that sentence?
 14 A. I do see that sentence.
 15 Q. So does McKesson acknowledge
 16 that death figures are being heralded by
 17 newspapers nationwide as of 2001?
 18 MS. HENN: Objection to form.
 19 Outside the scope.
 20 THE WITNESS: Could you ask
 21 that again in a different way, maybe?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Yeah.
 24 This is saying that there's
 25 newspaper headlines across the country of

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1 MS. HENN: Same objections.
 2 THE WITNESS: I haven't seen
 3 any of those headlines, so I can't
 4 speak to whether us as a distributor
 5 was called out in those.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. I'm not asking you if you were
 8 called out as a distributor. What I'm asking
 9 you is if McKesson acknowledged that the
 10 pills that it was selling was causing deaths
 11 nationwide and resulted in newspaper
 12 headlines across the country.
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 THE WITNESS: Yes, pills that
 16 we distribute were in headlines.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. And Purdue Pharma says that
 19 "those headlines are inaccurate and the prime
 20 mover of the negative hype surrounding
 21 OxyContin."
 22 Does McKesson Corporation,
 23 sitting here today, concur with Purdue
 24 Pharma?
 25 MS. HENN: Objection to form.

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1 people dying taking opioid pills that McKesson
 2 is distributing.
 3 Does McKesson acknowledge that?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: Not that --
 7 there's certainly headlines of
 8 opioid-related deaths.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. In 2001?
 11 A. I don't know of any
 12 specifically. I'm assuming there were in
 13 that time frame.
 14 Q. And it's a little unfair to ask
 15 you because you weren't there in 2001, but as
 16 McKesson's corporate designee I'm simply
 17 looking for an acknowledgement that the chain
 18 of distribution McKesson was involved in is
 19 being heralded in newspapers as causing
 20 deaths across the country.
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Does McKesson acknowledge that
 25 fact?

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1 Outside the scope.
 2 THE WITNESS: Reading the rest
 3 of this if you don't -- I'm reading
 4 down a little bit more, so...
 5 Can you ask your question
 6 again?
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Yeah.
 9 Does McKesson Corporation,
 10 sitting here today and testifying, concur
 11 with Purdue Pharma that the nationwide
 12 newspapers about overdose deaths are
 13 inaccurate?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: I can't speak to
 17 that. I'd just be speculating.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. You don't share Purdue Pharma's
 20 disavow of the problems caused by its
 21 OxyContin pills?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: I'm not saying
 25 that. I'm saying I can't answer the

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1 question that you asked earlier.
 2 (McKesson-Hartle Exhibit 14
 3 marked for identification.)
 4 QUESTIONS BY MR. FARRELL:
 5 Q. Next exhibit we'll have marked
 6 sequentially as Exhibit 4. It's from the
 7 Internet. It's document 2002_09_26.
 8 MS. HENN: Mr. Farrell, did you
 9 mean Exhibit 4 or 14?
 10 MR. FARRELL: 14.
 11 MS. HENN: Okay.
 12 MR. FARRELL: You caught me.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. And I'm not going to bore you
 15 with the details of this, but are you aware
 16 of the Office of Inspector General?
 17 A. I am.
 18 Q. This is a report generated by
 19 the OIG in 2002, and what it was talking
 20 about was it was talking about the opioid
 21 epidemic, and it was talking about the DEA's
 22 ability to regulate the industry.
 23 Have you reviewed this document
 24 before today?
 25 A. I have not.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. The OIG report basically says
 3 that as of 2001 there needed to be
 4 reassessment because the DEA was understaffed
 5 and underfunded and didn't have sufficient
 6 tools to be able to regulate the industry.
 7 Does McKesson acknowledge and
 8 agree with that assessment?
 9 MS. HENN: Objection to form.
 10 Outside the scope.
 11 THE WITNESS: Could you ask
 12 that again?
 13 MR. FARRELL: Yeah, obviously
 14 I'm leading up to some other
 15 documents.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. But does McKesson acknowledge
 18 that in 2001 there were 500 DEA diversion
 19 investigators trying to monitor all of the
 20 transactions in the country?
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 THE WITNESS: I see that in the
 24 documents. I can't speak to, you
 25 know, the DEA's total -- their

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1 Q. Give me a second here.
 2 On Bates stamp page 12, it's
 3 talking about diversion investigators. And
 4 it says there were 55 at headquarters and 455
 5 in the domestic field offices and 13
 6 overseas.
 7 Do you see that?
 8 A. I do see that.
 9 Q. So that means there's just over
 10 500 DEA diversion investigators in the
 11 country in 2001.
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Responsible for regulating the
 16 entire industry of the distribution of
 17 controlled substances.
 18 Do you know how many
 19 transactions McKesson engaged in in the
 20 distribution of controlled substances in
 21 2001?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: I do not have the
 25 number off the top of my head.

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1 response in total, so I can confirm
 2 that's in -- what's in this document.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. All right. So let's talk about
 5 it from a theoretical standpoint.
 6 Let's say there were 500
 7 highway patrol officers charged with
 8 regulating the speed on the highways in the
 9 United States of America in the year 2001.
 10 Do you believe that that would
 11 be a significant challenge, a somewhat of a
 12 challenge or not very challengeable at all?
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 THE WITNESS: Again, just
 16 speculating, it would be a challenge.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. How many people would speed in
 19 America if there were only 500 highway
 20 patrolmen in the country?
 21 MS. HENN: Same objections.
 22 THE WITNESS: I can't even
 23 guess or speculate.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Do you think that would be a

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1 lot of people or not a lot of people?
 2 MS. HENN: Same objections.
 3 THE WITNESS: Again, that
 4 depends on how many law-abiding
 5 citizens you have. I don't know if I
 6 can speculate.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. That is so true.
 9 What do you think the American
 10 citizen would do if they knew there were only
 11 500 highway patrolmen?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: Again, I don't
 15 know. Some people might speed. Some
 16 people might not change their behavior
 17 at all.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. That's right.
 20 What if the penalty, if you did
 21 get caught, was only \$10?
 22 MS. HENN: Objection to scope.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. How would that impact your view
 25 of the regulation of the American highways?

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1 MS. HENN: Same objections.
 2 THE WITNESS: Oh, if you
 3 can't -- sorry, excuse me. It may go
 4 up.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. So if there's -- if there's a
 7 limited number of regulators and a fine is
 8 not substantial and you don't lose your
 9 license, are we going to have more speeders
 10 or less speeders?
 11 MS. HENN: Objection to form.
 12 Outside the scope.
 13 THE WITNESS: Can you rephrase
 14 that a little bit?
 15 QUESTIONS BY MR. FARRELL:
 16 Q. Yeah.
 17 A. You rolled a few things in
 18 there.
 19 Q. You know what I'm trying to get
 20 to, right? If there's not enough law
 21 enforcement and the penalty isn't
 22 prohibitive, what happens to conduct?
 23 MS. HENN: Objection to form.
 24 Outside the scope.
 25 THE WITNESS: Again, it's

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1 MS. HENN: Objection to form.
 2 Outside the scope.
 3 THE WITNESS: Again, you can
 4 speculate. Some might see that as
 5 a -- yeah, it depends. It really
 6 depends.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. What if the biggest weapon the
 9 highway patrolmen had, which is the
 10 revocation of the driver's license, was
 11 changed and so now you don't even lose your
 12 license? How would that impact the system?
 13 MS. HENN: Same objections.
 14 THE WITNESS: Impact the
 15 system?
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Yeah, impact the number of
 18 speeders.
 19 MS. HENN: Objection to form.
 20 Outside the scope.
 21 THE WITNESS: You can speculate
 22 that it may go down.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. The number of speeders would go
 25 down if you can't lose your license anymore?

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1 speculative, but it could -- you know,
 2 behavior could change.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. What if you made billion of
 5 dollars by speeding, and there was not enough
 6 regulation by law enforcement and the penalty
 7 was not very big? What would that do as an
 8 incentive?
 9 MS. HENN: Same objections.
 10 THE WITNESS: Again, it depends
 11 on the situation, the scenario.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. It really depends on whether or
 14 not the individual is a law-abiding citizen
 15 or a criminal, agreed?
 16 MS. HENN: Same objections.
 17 Object to form. Outside the scope.
 18 THE WITNESS: It's part of it.
 19 (McKesson-Hartle Exhibit 15
 20 marked for identification.)
 21 MR. FARRELL: Last exhibit and
 22 then we'll take a break, if that's
 23 okay.
 24 MS. HENN: That works.
 25 QUESTIONS BY MR. FARRELL:

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1 Q. I'm going to have marked
 2 Exhibit 15, and the exhibit in the top
 3 right-hand corner is 2004_06_17. And for
 4 those of you playing at home, this is an
 5 excerpt from another Congressional record.
 6 This Congressional record was
 7 900 pages long, and so I did not copy the
 8 whole thing; I just pulled out the part that
 9 interested me.
 10 This is part of the US Senate
 11 Permanent Subcommittee on Investigations, and
 12 it was a hearing in June of 2004. And the
 13 title of the hearing was "Buyers Beware: The
 14 Dangers of Purchasing Pharmaceuticals Over
 15 the Internet."
 16 Now, McKesson has some
 17 experience with this, agreed?
 18 MS. HENN: Objection to form.
 19 THE WITNESS: Can you define --
 20 experience. What type of experience?
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Well, McKesson was selling to
 23 Internet pharmacies in this time frame,
 24 agreed?
 25 MS. HENN: Objection to form.

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1 you're seeing that?
 2 MR. FARRELL: Yeah, it's up on
 3 the screen there, and it's in the very
 4 middle.
 5 MS. HENN: Thank you. I
 6 appreciate that.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. So does McKesson -- first, does
 9 McKesson acknowledge that it is an associate
 10 member of the Pharmaceutical Research and
 11 Manufacturers of America?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: I can't speak to
 15 that. I don't know.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. I'll represent to you -- I'll
 18 represent to you that you are.
 19 A. Okay.
 20 Q. And do you know who this Rudy
 21 Giuliani fellow is?
 22 A. I do know who Mr. Giuliani is.
 23 Q. He's a lawyer, too, isn't he?
 24 A. He is.
 25 Q. And he was hired to do this

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1 THE WITNESS: I believe so.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. Well, McKesson should know so
 4 because you paid a \$13 million fine to the
 5 DEA for doing that very thing in 2008.
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Understood.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Okay. So this is a report, and
 10 it was -- if you flip to page 2, it was
 11 generated by a company called the
 12 Pharmaceutical Research Manufacturers of
 13 America. I guess they call it PhRMA.
 14 Is that how you say it?
 15 A. I don't know.
 16 Q. Well, McKesson is a member of
 17 this organization, and so colloquially within
 18 your ranks do you call it PhRMA? PhRMA?
 19 PhRMA? What do you say?
 20 MS. HENN: Counsel, I'm sorry,
 21 just a quick clarification. I'm not
 22 seeing a reference -- I see reference
 23 to Giuliani and his organization, but
 24 I don't see PhRMA.
 25 Can you just point out where

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1 investigation by the pharmaceutical industry.
 2 Do you see that?
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 THE WITNESS: I don't know if I
 6 see where specifically it states that.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. It says, "Giuliani Partners has
 9 been" --
 10 A. Oh, in the middle. Okay.
 11 Sorry.
 12 Q. They have been retained by
 13 PhRMA to do an evaluation.
 14 A. Understood. I see that.
 15 Q. Now what I'm going to have you
 16 do is I'm going to have you flip over to
 17 page 4, and it's interesting what Rudy
 18 Giuliani found.
 19 Do you see where it says "the
 20 distribution chain"?
 21 It says, "On its face, it
 22 appears that the distribution chain for
 23 prescription medicines in the United States
 24 is fairly straightforward."
 25 A. I was on the wrong number 4.

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1 I see where it says that.
 2 Q. And it says, "Manufacturers
 3 sell their products to wholesalers."
 4 That'd be you, McKesson,
 5 correct?
 6 A. Correct.
 7 Q. "Who, in turn, sell the
 8 products to retail pharmacies and stores,
 9 who, in turn, dispense medicines to patients
 10 with prescriptions."
 11 Do you see that?
 12 A. Yes.
 13 Q. And that's a straightforward
 14 system is what Rudy Giuliani is saying.
 15 Will you read the next
 16 sentence, please?
 17 A. "It is not until the system is
 18 studied in greater detail that one begins to
 19 appreciate both the complexities and the
 20 vulnerability of the distribution chain and
 21 potential for exploitation or abuse."
 22 Q. So big pharma is acknowledging
 23 in 2004, through hiring their own expert in
 24 presenting to Congress, that this chain of
 25 distribution that McKesson is engaged in is

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1 pharma's own consultant that the chain of
 2 distribution, at least in 2004 with respect
 3 to rogue Internet pharmacies in particular,
 4 was subject to exploitation or abuse.
 5 MS. HENN: Objection to form.
 6 Outside the scope.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Agreed that's what it says?
 9 MS. HENN: Same objections.
 10 THE WITNESS: Agree that's what
 11 it says.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. And in fact, McKesson paid a
 14 fine for some of these exploitations and
 15 abuse in 2008.
 16 MS. HENN: Objection to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Agreed?
 19 A. There was a fine as part of the
 20 settlement.
 21 Q. Related to this specific topic?
 22 MS. HENN: Objection to form.
 23 THE WITNESS: It was included
 24 in the settlement.
 25

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1 complex and vulnerable for exploitation or
 2 abuse, agreed?
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 THE WITNESS: It's what they
 6 listed in here and documented, yes.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. And the very first factor for
 9 contributing factors, will you read aloud
 10 what it says?
 11 A. "Wholesalers or distributors
 12 are primarily regulated by the states, with
 13 no uniform standards across state borders.
 14 States have a comparatively small number of
 15 investigators to monitor the licensed
 16 wholesalers; thus, given the sheer number of
 17 wholesalers, oversight is minimal."
 18 Q. In the very next paragraph it
 19 says, "There are thousands of secondary
 20 pharmaceutical wholesalers in addition to
 21 McKesson, AmerisourceBergen and Cardinal
 22 Health, the big three."
 23 Do you see that sentence?
 24 A. I see that.
 25 Q. So this is a recognition by big

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1 QUESTIONS BY MR. FARRELL:
 2 Q. So yes?
 3 A. Yes.
 4 Q. So in 2004, we've got big
 5 pharma acknowledging the chain of custody for
 6 wholesalers is subject to exploitation or
 7 abuse because of a lack of oversight?
 8 MS. HENN: Objection to form.
 9 Outside the scope.
 10 THE WITNESS: Would you say
 11 that again? Ask --
 12 QUESTIONS BY MR. FARRELL:
 13 Q. In 2004, big pharma hired Rudy
 14 Giuliani's firm to do an evaluation of the
 15 chain of distribution of prescription
 16 medicines, and what he found was that the
 17 chain of distribution was subject to
 18 exploitation or abuse because of lack of
 19 oversight?
 20 A. That's what's stated in the
 21 document, correct.
 22 Q. And that during this time
 23 frame, McKesson paid a fine for that very
 24 thing?
 25 MS. HENN: Objection to form.

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1 THE WITNESS: In the 2008**2 settlement, yes.**

3 QUESTIONS BY MR. FARRELL:

4 Q. And that fine was related to

5 McKesson selling an unusual size of

6 prescription opiate pills to rogue Internet

7 pharmacies?

8 MS. HENN: Objection to form.

9 THE WITNESS: Can you ask that

10 again, one more time? Sorry.

11 QUESTIONS BY MR. FARRELL:

12 Q. Yeah.

13 In this time frame, McKesson

14 ended up paying a fine to the DEA for selling

15 too many opium pills to rogue Internet

16 pharmacies in violation of federal law?

17 MS. HENN: Objection to form.

18 THE WITNESS: To be accurate,

19 I'd have to look at the document again

20 in terms of specific language, but it

21 was part of the settlement.

22 QUESTIONS BY MR. FARRELL:

23 Q. We'll get to that after lunch.

24 A. Okay.

25 Q. But you acknowledge that what

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1 A. It's a letter from DEA to**2 registrants from Joe Rannazzisi.****3 Q. Is this -- you might need help****4 with counsel a little bit on this.****5 I don't see where this letter****6 is addressed to McKesson as the recipient;****7 however, this document was produced by****8 McKesson. And I'm assuming this is the 2006****9 Rannazzisi letter that was sent to McKesson.****10 Is that your understanding?****11 A. Yes.**

12 Q. So there's no question

13 September 27, 2006, McKesson received this

14 communication.

15 Do you know whether or not

16 there was one document sent to McKesson or

17 there was a letter sent to each of your

18 distribution facilities?

19 A. That, I do not know.

20 MR. FARRELL: Okay. Can I ask,

21 Counsel, do you know?

22 MS. HENN: I'm sorry, I don't.

23 QUESTIONS BY MR. FARRELL:

24 Q. Anyway, if in fact there is

25 another document that has a specific one,

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1 Rudy Giuliani said in 2004 came home to roost

2 with McKesson when it paid a fine in 2008?

3 MS. HENN: Objection to form.

4 Outside the scope.

5 THE WITNESS: I don't know if I

6 would characterize it as coming home

7 to roost, but they're connected or

8 they're related.

9 MR. FARRELL: Take a break.

10 VIDEOGRAPHER: The time is

11 12:04 p.m. We're going off the

12 record.

13 (Off the record at 12:04 p.m.)

14 VIDEOGRAPHER: The time is

15 1:05 p.m. We're back on the record.

16 (McKesson-Hartle Exhibit 16

17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to reference**20 Exhibit 16 which we've just had marked. The****21 top right-hand corner is 2006_09_27,****22 Bates-stamped MCKMDL00478906.****23 Do you recognize this document?****24 A. I do.****25 Q. What is it?**

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1 you'll agree with me that all of these 2006

2 letters that were sent out, they were sent

3 out to all the registrants across the

4 country?

5 MS. HENN: Objection to form.

6 THE WITNESS: Yeah, that's what

7 I believe to be the case, yeah.

8 QUESTIONS BY MR. FARRELL:

9 Q. In fact, the first sentence

10 says --

11 A. Right.

12 Q. -- this letter is being sent to

13 every commercial entity in the United

14 States --

15 A. Right.

16 Q. -- registered --

17 A. Whether it went to all of our

18 individual DCs, I can't confirm, but --

19 Q. But sitting here today as the**20 McKesson corporate designee, you acknowledge****21 receipt of the September 27, 2006 letter from****22 Joe Rannazzisi?**

23 A. Yes.

24 Q. My understanding -- and we'll

25 get into it other documents -- is that prior

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1 to this there was actually meetings with the
 2 DEA regarding allegations that you were not
 3 complying with your federal regulations; is
 4 that fair?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: I'm aware that
 7 there were meetings.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. I have been unaware of any
 10 documents produced related to this time
 11 frame, meaning 2004, 2005, 2006, related to
 12 the initial investigations or internal
 13 documents relating to the DEA's
 14 investigation.
 15 Have you seen any of those
 16 documents?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Documents prior
 19 to -- leading up to the settlement or
 20 the investigation? I don't recall.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Okay.
 23 A. I don't believe so.
 24 Q. I've got some things that we'll
 25 go through. What I'm really curious about,

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1 **A. From what I understand in**
 2 **talking with a former McKesson employee**
 3 **before this deposition, this was mostly a**
 4 **confirmation or a reiteration of the**
 5 **regulations, which McKesson knew, and**
 6 **highlighting things that were -- you know,**
 7 **that the team was doing. And it was sort of**
 8 **a validation of some of the things that they**
 9 **had been doing, so the red flags and things**
 10 **like that. So not significant changes that**
 11 **I'm aware of.**
 12 Q. Have you had an opportunity to
 13 review the 2006 Rannazzisi letter in
 14 preparation for today's deposition?
 15 A. Yes.
 16 Q. On behalf of McKesson
 17 Corporation, are you willing to affirm,
 18 acknowledge and validate all of the
 19 statements Mr. Rannazzisi places in his
 20 September 27, 2006 correspondence?
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 THE WITNESS: Could you be more
 24 specific? Validate every single
 25 statement and...

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1 whether or not there was anything prior to
 2 September 27, 2006, that you recall?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: Not that I
 5 recall.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. So at this point in time, the
 8 Section 55 policy was still in force and
 9 effect, correct?
 10 A. Yes.
 11 Q. Are you sure?
 12 A. Yes.
 13 Q. Okay. This letter was
 14 received.
 15 Do you know whether or not it
 16 was circulated amongst McKesson or it was
 17 discussed or reviewed or analyzed?
 18 MS. HENN: Objection to form.
 19 THE WITNESS: I'm not
 20 100 percent sure I know who all
 21 received it, so I can't answer that --
 22 I can't answer that specifically.
 23 QUESTIONS BY MR. FARRELL:
 24 **Q. Did McKesson change its conduct**
 25 **at all based upon this correspondence?**

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Yeah.
 3 Paragraph C of the 30(b)(6)
 4 notice asks for "testimony regarding
 5 McKesson's past and present interpretation,
 6 compliance, agreement and/or disagreement
 7 with this letter from the DEA outlining the
 8 duties imposed on a distributor under federal
 9 law."
 10 **So let's start with this: Is**
 11 **there anything in this letter that you**
 12 **disagree with?**
 13 MS. HENN: Objection to form.
 14 **THE WITNESS: I don't believe**
 15 **there's anything I would disagree**
 16 **with.**
 17 QUESTIONS BY MR. FARRELL:
 18 **Q. Is this an accurate statement**
 19 **of the law?**
 20 MS. HENN: Objection to form.
 21 **THE WITNESS: I believe it is.**
 22 QUESTIONS BY MR. FARRELL:
 23 **Q. So as of September 27, 2006,**
 24 **the DEA is advising McKesson -- not advising,**
 25 **but referencing the fact that there was a**

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1 prescription drug abuse problem in the United
 2 States of America. That's in the very first
 3 paragraph.
 4 Does McKesson acknowledge that?
 5 A. Yes.
 6 Q. The next sentence says, "As
 7 each of you is undoubtedly aware, the abuse,
 8 nonmedical use, of controlled prescription
 9 drugs is a serious and growing health problem
 10 in the country."
 11 Does McKesson agree and
 12 acknowledge that fact as of 2006?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: Yes.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. The next full paragraph says,
 17 "The Controlled Substances Act was designed
 18 by Congress to combat diversion by providing
 19 for a closed system of drug distribution in
 20 which all legitimate handlers of controlled
 21 substances must obtain a DEA registration; as
 22 a condition of maintaining such registration,
 23 must take reasonable steps to ensure that
 24 their registration is not being utilized as a
 25 source of diversion."

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1 substances has a substantial and detrimental
 2 effect on the health and general welfare of
 3 the American people."
 4 Q. So again, this is the DEA
 5 reiterating what we've discussed before:
 6 that failing to abide by the Code of Federal
 7 Regulations has a substantial and detrimental
 8 effect on the health and general welfare of
 9 the American people.
 10 Does McKesson agree and
 11 acknowledge with that fact?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: Yes.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Go to the next page, page 2,
 16 the second full paragraph. It says,
 17 "Nonetheless, given the extent of
 18 prescription drug abuse in the United States,
 19 along with the potential -- along with
 20 dangerous and potentially lethal consequences
 21 of such abuse" -- will you please finish that
 22 sentence?
 23 A. "Even just one distributor that
 24 uses its DEA registration to facilitate
 25 diversion can cause enormous harm."

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1 Does McKesson acknowledge and
 2 agree with that statement?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I agree with
 5 that.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. I'd like you to read the next
 8 sentence aloud, please.
 9 A. Where it starts "distributors
 10 are"?
 11 Q. Yes.
 12 A. "Distributors are, of course,
 13 one of the key components of the distribution
 14 chain."
 15 Q. Keep going, please.
 16 A. You want me to read the whole
 17 paragraph? Okay.
 18 "If the closed system is to
 19 function properly as Congress envisioned,
 20 distributors must be vigilant in deciding
 21 whether a prospective customer can be trusted
 22 to deliver controlled substances only for
 23 lawful purposes. The responsibility is
 24 critical, as Congress has expressly declared
 25 that the illegal distribution of controlled

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1 Q. Does McKesson acknowledge and
 2 accept that fact?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I agree with
 5 that.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. If you go down to the third to
 8 last paragraph, it says, "In addition to
 9 reporting all suspicious orders, a
 10 distributor has a statutory responsibility to
 11 exercise due diligence to avoid filling
 12 suspicious orders that might be diverted into
 13 other than legitimate medical, scientific and
 14 industrial channels."
 15 Does McKesson acknowledge and
 16 accept that to be true?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Yes.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. And then the last sentence of
 21 the next paragraph says at the end, "The
 22 distributor should exercise due care in
 23 confirming the legitimacy of all orders prior
 24 to filing."
 25 Do you see that sentence?

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1 Not "filing." "Prior to
 2 filling."
 3 A. I see that sentence.
 4 **Q. All right. Since I butchered**
 5 **that sentence, will you please read the last**
 6 **sentence that's highlighted on the screen?**
 7 **A. "The distributor should**
 8 **exercise due care in confirming the**
 9 **legitimacy of all orders prior to filing."**
 10 **Q. Now, this is in September**
 11 **of 2006, agreed?**
 12 **A. Agreed.**
 13 **Q. And this is a clear statement**
 14 **from the DEA; would you agree with that?**
 15 **A. I would agree with that.**
 16 Q. McKesson's official position is
 17 that when it received communications from the
 18 DEA, the DEA was clear as of 2006?
 19 MS. HENN: Objection to form.
 20 Also beyond the scope.
 21 THE WITNESS: The only question
 22 I would have about possibility is due
 23 care, what the definition of what due
 24 care means.
 25

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1 suspicious, agreed?
 2 A. That's what's in the document,
 3 yes.
 4 Q. Okay. Do you disagree with
 5 that?
 6 A. That they shared that, they --
 7 I don't disagree with that.
 8 Q. Yet your Section 55 policy, you
 9 testified this morning, you were shipping
 10 suspicious orders?
 11 MS. HENN: Objection to form.
 12 THE WITNESS: There was a
 13 process by which those reports were
 14 reviewed, which I would consider to be
 15 part of due care in a review.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Is there a due care file for
 18 each of those?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Not that I'm
 21 aware of.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. So there's no documentation of
 24 the due care of each suspicious order that
 25 was shipped by McKesson in accordance with

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Okay. Fair. Fair enough.
 3 If you flip to the next page,
 4 there's a laundry list of due care.
 5 Do you agree on page 3 going
 6 through this, the DEA was clear with McKesson
 7 about the circumstances that might be
 8 indicative of diversion?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: I wouldn't
 11 classify these -- I wouldn't call them
 12 due care. These are to be red flags,
 13 indicators.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. So in 2006, the DEA is telling
 16 McKesson, you have to exercise due care prior
 17 to filling an order which you deem to be
 18 suspicious, agreed?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Could you ask
 21 that again? Restate that?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. In 2006, the DEA is telling
 24 McKesson, you have to exercise due care prior
 25 to filling an order which you deem to be

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1 the July 2000 policies and procedures?
 2 MS. HENN: Objection to form.
 3 THE WITNESS: Could you restate
 4 that, please?
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Is there any documentation of
 7 the due care performed by McKesson from
 8 July 2000 onward pursuant to Section 55 with
 9 regard to suspicious orders that were
 10 shipped?
 11 MS. HENN: Objection to form.
 12 Outside the scope.
 13 THE WITNESS: I can't speak to
 14 the specific documentation and how it
 15 was documented those reviews that were
 16 conducted of those specific reports
 17 that were generated. Could have been
 18 documentation on a form.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Have you seen such
 21 documentation?
 22 MS. HENN: Objection to form.
 23 THE WITNESS: I haven't
 24 personally seen examples of that.
 25

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Have you seen any piece of
 3 paper that indicates that the suspicious
 4 orders that were shipped were subject to a
 5 due diligence review beforehand, from
 6 July 2000 to 2007?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. It doesn't mean they don't
 11 exist.
 12 A. Right.
 13 Q. I'm just asking if you've seen
 14 them.
 15 MS. HENN: Same objections.
 16 THE WITNESS: I don't believe
 17 I've seen -- I haven't seen examples.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So you're taking it on faith
 20 that due diligence was, in fact, performed?
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 THE WITNESS: From what I
 24 understand and some of the
 25 conversations I've had, that due

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1 THE WITNESS: Agreed.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. So every single order that was
 4 deemed suspicious by your monitoring program
 5 should have been reported to the DEA from
 6 July 2000, at least through Rannazzisi's 2006
 7 letter?
 8 MS. HENN: Objection to form.
 9 Outside the scope.
 10 THE WITNESS: I believe that's
 11 the case, to have faxed that or sent
 12 it to the local diversion office.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. If McKesson did not report
 15 those orders, it was in violation of federal
 16 law, agreed?
 17 MS. HENN: Objection to form.
 18 Outside the scope.
 19 THE WITNESS: Can you ask that
 20 one again or restate?
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Yeah. It's a hypothetical.
 23 A. Right.
 24 Q. If McKesson did not report
 25 suspicious orders detected following the

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1 diligence processes did happen and
 2 exist, yes.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Well, you'll agree with me that
 5 Section 55 seems to indicate that there's no
 6 subjective involvement regarding the
 7 reporting of suspicious orders; it was a
 8 statistical fact.
 9 MS. HENN: Objection to form.
 10 Outside the scope.
 11 THE WITNESS: Can you ask that
 12 one again?
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Yeah, I'm not trying to play
 15 word games.
 16 A. I know.
 17 Q. It appears from the Section 55
 18 policy that's in writing that McKesson's
 19 position was to eliminate subjective review
 20 of whether or not a suspicious order was
 21 reportable, and that the policy states if
 22 it's deemed suspicious as a statistical fact,
 23 it should be reported to the DEA. Agreed?
 24 MS. HENN: Objection to form.
 25 Outside the scope.

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1 July 2000 Section 55 policy -- let me start
 2 over. Let me see if I can make this as
 3 simple as possible.
 4 Beginning in July of the year
 5 2000 --
 6 A. Okay.
 7 Q. -- if McKesson did not report a
 8 suspicious order it detected pursuant to the
 9 Section 55 policy, McKesson was in violation
 10 of federal law; agreed or disagree?
 11 MS. HENN: Objection to form.
 12 Outside the scope.
 13 THE WITNESS: I agree that it
 14 would -- it's -- I don't know. Maybe
 15 ask it again. I apologize for pausing
 16 here.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. It's an important question.
 19 A. Yeah.
 20 Q. McKesson has a statutory and
 21 regulatory responsibility under federal
 22 law --
 23 A. Right.
 24 Q. -- to report suspicious orders
 25 to the DEA?

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1 A. Correct.
 2 Q. McKesson, in July of 2000,
 3 adopted a policy that we've been referring to
 4 as Section 55 --
 5 A. Correct.
 6 Q. -- to do that very thing?
 7 A. Correct.
 8 Q. That policy states that it's
 9 not a subjective determination of whether to
 10 report; it's a statistical fact of whether
 11 you should report?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: The report is a
 14 statistical -- a statistically
 15 generated one, yes.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. And whether to report it to the
 18 DEA is not a subjective determination; it's
 19 mandatory if you detect a suspicious order?
 20 MS. HENN: Objection to form.
 21 Outside the scope.
 22 THE WITNESS: I believe that to
 23 be the case.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. So if you didn't do that, it's

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1 Sir, have you seen this
 2 document before today?
 3 A. I don't believe I've seen this
 4 specific one.
 5 Q. I'll give you a minute to
 6 review.
 7 A. Okay. I've read that. Thank
 8 you for taking the time.
 9 Q. No problem.
 10 **So to start off with on this**
 11 **exhibit, you acknowledge that there was a**
 12 **meeting with the DEA on April 5, 2007. It's**
 13 **from the very first paragraph.**
 14 A. Yes.
 15 Q. So at this point in time, the
 16 DEA had issued an order to show cause against
 17 McKesson, agreed?
 18 A. Correct.
 19 Q. I've yet to see any
 20 documentation of anything that predates
 21 April 25, 2007, related to this
 22 investigation.
 23 Have you seen such documents?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: I don't believe

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1 a violation of federal law?
 2 MS. HENN: Objection to form.
 3 Outside the scope.
 4 THE WITNESS: I believe so.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Big if, right?
 7 A. If, right.
 8 Q. If that happened, if McKesson
 9 detected a suspicious order following the
 10 Section 55 enactment and did not report it to
 11 the DEA, that's a violation of federal law?
 12 A. If.
 13 MS. HENN: Objection to form.
 14 (McKesson-Hartle Exhibit 17
 15 marked for identification.)
 16 QUESTIONS BY MR. FARRELL:
 17 **Q. I'm going to mark what's going**
 18 **to be Exhibit 17. The document ID is**
 19 **2007_04_25. I apologize, there is no MDL**
 20 **Bates stamp that I could locate; however,**
 21 **there is a prior production Bates stamp of**
 22 **MCK-HOI-002 dash a whole bunch of zeros and**
 23 **then 1.**
 24 **I'll give you a few minutes to**
 25 **look through this.**

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1 so, no.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. To the extent that such
 4 documents do exist, we again reserve our
 5 right to come back and discuss them further,
 6 subject to the objection of counsel.
 7 **But for what we have here, this**
 8 **appears that at least in April of 2007, the**
 9 **DEA had already issued a rule to show cause**
 10 **complaining that one of your distribution**
 11 **centers was not following federal law,**
 12 **agreed?**
 13 MS. HENN: Objection to form.
 14 **THE WITNESS: That's what they**
 15 **alleged.**
 16 QUESTIONS BY MR. FARRELL:
 17 Q. When you go to page 2 under
 18 Proposed Action Plan, does this indicate to
 19 you that McKesson is acknowledging that they
 20 need to do better to comply with federal law?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: I think this is
 23 acknowledge -- excuse me --
 24 acknowledgement of just improvements
 25 in the program, taking information in

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1 to evolve the program based on
 2 collaboration with DEA and information
 3 they're receiving.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. You're in management, are you
 6 not?
 7 A. I am.
 8 Q. And have you ever written a
 9 proposed action plan for an employee?
 10 A. I have.
 11 Q. And is it just to document
 12 something new, or are you trying to correct
 13 something?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: There can be many
 16 different types of action plans. I've
 17 done both.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Okay. In this one, the very
 20 first sentence says, "We," meaning McKesson,
 21 "agree that it is in McKesson's interest to
 22 implement a program across all of its DCs
 23 that can assist the company in identifying
 24 potential excessive purchases and enable the
 25 company to work more closely with the DEA."

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1 MS. HENN: Objection to form.
 2 THE WITNESS: I don't think
 3 it's that black and white in terms of
 4 how you implement a program in
 5 business, or when you mentioned a
 6 personnel action plan, it could be a
 7 combination of both. It could be to
 8 improve upon what you've been doing
 9 because of new information or trends
 10 or data that you've received. It
 11 could be a number of things.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. As a McKesson corporate
 14 designee, are you willing to admit here today
 15 that as of April 25, 2007, McKesson was not
 16 fulfilling its obligations under federal law
 17 regarding the monitoring of the distribution
 18 of controlled substances?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Can you ask that
 21 again, please?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. As a McKesson corporate
 24 designee, are you willing to admit here today
 25 that as of April 25, 2007, McKesson was not

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1 Did I read that accurately?
 2 A. You did.
 3 Q. So as of April 25th of 2007,
 4 McKesson did not have a program across all of
 5 its distribution centers, did it?
 6 MS. HENN: Object to form.
 7 THE WITNESS: I believe that's
 8 accurate. The review of suspicious
 9 orders, the DU 45s, consider that to
 10 be programmatic, or a program.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. So then why did your lawyers
 13 for McKesson tell the DEA you were
 14 implementing a program across all the
 15 distribution centers?
 16 MS. HENN: Objection to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. There's only one of two
 19 reasons: One is that there was no program,
 20 or two is that all of the distribution
 21 centers were not following it.
 22 MS. HENN: Objection to form.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. Can you think of a third
 25 alternative?

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1 fulfilling its obligations under federal law
 2 regarding the distribution of controlled
 3 substances?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: I believe in
 6 partnership with DEA and always in
 7 good faith, McKesson was believed to
 8 be compliant with the regulations.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. I understand that McKesson as a
 11 corporate entity -- McKesson, it's not a
 12 person, right? McKesson Corporation is a
 13 fictional piece of paper that creates a
 14 business model, agreed?
 15 MS. HENN: Objection to form.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Is there a Mr. McKesson still
 18 running the company?
 19 A. No, there's not.
 20 Q. All right. So McKesson is a
 21 corporation?
 22 A. Agreed. I understand that.
 23 Q. And in April of 2007, it was
 24 meeting with the federal government, the DEA,
 25 and changing the way it was doing business,

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1 agreed?

2 MS. HENN: Objection to form.

3 THE WITNESS: Changing,

4 enhancing, adding.

5 QUESTIONS BY MR. FARRELL:

6 Q. Okay. And in part, it was

7 because McKesson was not fulfilling its

8 obligations under federal law?

9 MS. HENN: Objection to form.

10 QUESTIONS BY MR. FARRELL:

11 Q. Can that even be disputed?

12 MS. HENN: Same objection.

13 QUESTIONS BY MR. FARRELL:

14 Q. You paid a \$13 million fine as

15 a result of this investigation.

16 Can you not acknowledge today,

17 in 2007 there were shortcomings in your

18 controlled substance monitoring program?

19 MS. HENN: Objection to form.

20 THE WITNESS: We denied those

21 allegations in that settlement, and we

22 obviously -- as any program does,

23 wants to improve and expand and take

24 new information in.

25

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1 it says you're going to implement this

2 Lifestyle Drug Monitoring Program by May 1,

3 2007.

4 Do you see that paragraph?

5 A. I do.

6 Q. So is it fair to say that

7 Section 55, which was in force beginning in

8 July of 2000, was replaced on May 1, 2007, by

9 the Lifestyle Drug Monitoring Program?

10 MS. HENN: Objection to form.

11 THE WITNESS: I don't think

12 it's fair to say it was completely

13 replaced.

14 QUESTIONS BY MR. FARRELL:

15 Q. Modified, amended.

16 So that we're no longer

17 referencing Section 55, we're now going to

18 begin referencing the Lifestyle Drug

19 Monitoring Program.

20 MS. HENN: Objection to form.

21 THE WITNESS: There's

22 components of both that still existed.

23 QUESTIONS BY MR. FARRELL:

24 Q. Formulated and assimilated into

25 the Lifestyle Drug Monitoring Program?

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1 QUESTIONS BY MR. FARRELL:

2 Q. So you paid \$13 million as a

3 tax write-off?

4 MS. HENN: Objection to form.

5 THE WITNESS: As a settlement

6 between both parties.

7 QUESTIONS BY MR. FARRELL:

8 Q. To settle what? Allegations of

9 what?

10 MS. HENN: Objection to form.

11 THE WITNESS: Issues related to

12 the regulations.

13 QUESTIONS BY MR. FARRELL:

14 Q. The allegations were that

15 McKesson was not fulfilling its obligations

16 under federal law, agreed?

17 A. That was the allegations.

18 Q. And McKesson wrote an action

19 plan and paid a fine to the DEA to get a

20 release for its conduct?

21 MS. HENN: Objection to form.

22 THE WITNESS: I think that's

23 accurate. We did.

24 QUESTIONS BY MR. FARRELL:

25 Q. And on page 2 of this exhibit,

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1 MS. HENN: Objection to form.

2 THE WITNESS: Parts of it.

3 This was an advancement of that.

4 QUESTIONS BY MR. FARRELL:

5 Q. Okay. You'll see in

6 paragraph 2 that it says that you are

7 "developing the technology that will enable

8 each McKesson distribution center to generate

9 an automated report to identify threshold

10 sales."

11 Do you see that?

12 A. I do.

13 Q. Prior to this, you did not have

14 that technology?

15 MS. HENN: Objection to form.

16 THE WITNESS: I can't speak to

17 whether we actually had the technology

18 to create a report like that, but I

19 think this is referencing -- you know,

20 putting that into -- into play with

21 the idea of establishing thresholds

22 and creating reports off of that. So

23 we didn't have that report.

24 QUESTIONS BY MR. FARRELL:

25 Q. You remember this morning we

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1 went through Section 55 with all those
 2 reports that you were generating with the --
 3 what was it called, Drohan Data Center?
 4 A. Correct.
 5 Q. Right?
 6 But in 2007, you're still
 7 developing technology to generate summary
 8 reports?
 9 MS. HENN: Objection to form.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Doesn't make sense, does it?
 12 A. No, I believe it does. There's
 13 additions to this. This is -- those previous
 14 reports were at the item level, and they were
 15 generated using a certain algorithm.
 16 So what's referenced in here is
 17 the new concept of accumulating all of those
 18 items that have the same DEA base code into a
 19 monthly accumulation. So there's IT work,
 20 project work, to make those things happen,
 21 so...
 22 Q. There weren't any monthly
 23 reports generated from the Section 55 policy?
 24 A. There were monthly reports.
 25 MS. HENN: Objection to form.

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1 Outside the scope.
 2 THE WITNESS: I know the amount
 3 was derived from communication with
 4 DEA in some of the averages.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. We'll get to that in a second.
 7 **But in general, the DEA in 2007**
 8 **is telling McKesson the average pharmacy is**
 9 **5,000 pills a month for each of these four**
 10 **drugs, two of which are oxycodone and**
 11 **hydrocodone, and that McKesson is promising**
 12 **with its proposed action plan following an**
 13 **investigation and a rule to show cause to**
 14 **adopt a threshold of 8,000 pills.**
 15 MS. HENN: Objection to form.
 16 Outside the scope.
 17 QUESTIONS BY MR. FARRELL:
 18 **Q. That's what it says.**
 19 **A. Right.**
 20 MS. HENN: Same objections.
 21 QUESTIONS BY MR. FARRELL:
 22 **Q. And then following that, on the**
 23 **next page it talks about the level of**
 24 **reviews. Page 3. The top of the page says,**
 25 **"The customer will not be allowed to exceed**

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1 QUESTIONS BY MR. FARRELL:
 2 Q. So how does this enhance that?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: Again, this
 5 program added monthly accumulations of
 6 thresholds.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Great. That's the next
 9 paragraph.
 10 A. Okay.
 11 **Q. And you've identified 8,000**
 12 **pills by base code as the threshold for each**
 13 **customer, agreed?**
 14 MS. HENN: Objection to form.
 15 **THE WITNESS: For those four**
 16 **specific base codes called out.**
 17 QUESTIONS BY MR. FARRELL:
 18 **Q. And that includes hydrocodone**
 19 **and oxycodone?**
 20 **A. It does.**
 21 Q. And that's because the DEA told
 22 McKesson that the average pharmacy in America
 23 was selling 5,000 oxycodone pills and 5,000
 24 hydrocodone pills per month?
 25 MS. HENN: Objection to form.

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1 **the 8,000 monthly dosage limit until a due**
 2 **diligence review has been completed."**
 3 **A. I see that.**
 4 Q. So what this is basically doing
 5 is McKesson is saying that the base threshold
 6 is 8,000 pills, and anything above that is
 7 suspicious and will not be reported until a
 8 due diligence review has been completed.
 9 MS. HENN: Objection to form.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Is that a fair and accurate
 12 assessment of your Lifestyle Drug Monitoring
 13 Program?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Can you ask that
 16 question again?
 17 QUESTIONS BY MR. FARRELL:
 18 Q. In 2007, McKesson is telling
 19 the DEA, in the midst of a DEA investigation
 20 of McKesson, that it's going to adopt a
 21 proposed action plan, and it's outlined in
 22 this April 25, 2007 letter, agreed?
 23 A. Agreed.
 24 Q. And as part of that, McKesson
 25 has told the DEA we're going to start

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1 adopting thresholds.
 2 A. Agreed, for those four base
 3 codes.
 4 Q. This is the first time in
 5 McKesson's history that it was using
 6 thresholds?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 THE WITNESS: Monthly
 10 thresholds, correct.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. In fact, nobody in the country
 13 was doing thresholds prior to this?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: I'm not aware if
 17 others were.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. McKesson set an 8,000 threshold
 20 limit for each customer for hydrocodone and
 21 oxycodone.
 22 A. Correct.
 23 Q. Anything above that was going
 24 to be halted until a due diligence review
 25 could be completed.

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1 being is in 2006, the DEA is telling McKesson
 2 if you get a suspicious order, you have to
 3 halt and you cannot ship it until you look
 4 into it.
 5 MS. HENN: Objection to form.
 6 THE WITNESS: Can we look at
 7 that specific language?
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Sure.
 10 A. Can you point it out to me?
 11 Q. I hope so. 2006_09_27, page 2,
 12 beginning with the paragraph, "Thus,"
 13 two-thirds of the way down, "in addition to
 14 reporting all suspicious orders" -- right?
 15 What does that say? "In addition to
 16 reporting all suspicious orders."
 17 "All" means what?
 18 A. All.
 19 Q. So if you get a suspicious
 20 order, what is McKesson supposed to do?
 21 A. To report it.
 22 Q. And if you don't, is that
 23 lawful or unlawful?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: That doesn't meet

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1 MS. HENN: Objection to form.
 2 THE WITNESS: That's what I
 3 understand the process to be.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. So going back to the 2006
 6 Rannazzisi letter, this is an acknowledgement
 7 under the shipping requirement that you must
 8 halt suspicious orders until due diligence is
 9 performed?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: Can you ask that
 12 again or restate that, please?
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Mr. Rannazzisi, in his 2006
 15 letter from the DEA to McKesson, informed
 16 McKesson of its duty to halt suspicious
 17 orders, agreed?
 18 A. Was that the specific language
 19 or was that the due --
 20 Q. We can go back and take a look
 21 at it.
 22 A. Yeah. Exercise due care.
 23 Q. I mean, I don't care what
 24 standard we're using right now; you can say
 25 due diligence or due care. But the idea

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1 the expectation or the guideline that
 2 they lay out in this communication.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Which makes -- and that
 5 guideline is premised upon what?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: The CFR.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. And so that makes it lawful or
 10 unlawful?
 11 MS. HENN: Objection to form.
 12 THE WITNESS: Unlawful.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. The next part: "A distributor
 15 has a statutory responsibility to exercise
 16 due diligence to avoid filling suspicious
 17 orders."
 18 Agreed?
 19 A. I agree with that language. It
 20 doesn't say -- that's not halt.
 21 Q. Well, it's a halt until you do
 22 due diligence --
 23 A. Yeah.
 24 Q. -- right?
 25 A. It's not a block. Yeah, it's

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1 a...

2 Q. Maybe this is just a

3 terminology issue.

4 A. Might be.

5 **Q. Block -- all I'm saying is, is**

6 **that McKesson's not allowed to ship a**

7 **suspicious order without looking into it**

8 **first, agreed?**

9 MS. HENN: Objection to form.

10 **THE WITNESS: That's how I read**

11 **that language.**

12 QUESTIONS BY MR. FARRELL:

13 **Q. That is the law?**

14 **A. Yeah.**

15 Q. Yes?

16 MS. HENN: Objection to form.

17 THE WITNESS: The law is to

18 design a system to identify suspicious

19 orders.

20 QUESTIONS BY MR. FARRELL:

21 Q. That's one part of the law.

22 A. Right.

23 Q. What does the CFR say?

24 MS. HENN: Objection to form.

25 THE WITNESS: To identify

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1 MS. HENN: Objection to form.

2 QUESTIONS BY MR. FARRELL:

3 Q. Let's get back to it.

4 Masters Pharmaceutical has a

5 reporting requirement and a shipping

6 requirement. We reviewed it this morning,

7 agreed?

8 A. Parts of it, correct. Agreed.

9 Q. It's premised upon a code

10 provision. The United States Congress passed

11 a US Code provision in 1970, agreed?

12 A. Agreed.

13 Q. And it passed -- the Department

14 of Justice enacted regulations which are

15 binding as federal law related to this very

16 topic, agreed?

17 A. Agreed.

18 Q. And if you don't follow those

19 rules, McKesson can be fined by the federal

20 government?

21 A. Agreed.

22 Q. McKesson's been fined twice

23 that I know of, once for 13 million in 2008

24 and once for 150 million in 2017, for

25 violating these very laws.

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1 orders of unusual size, pattern and

2 frequency.

3 QUESTIONS BY MR. FARRELL:

4 Q. And so if you ship a suspicious

5 order without doing due diligence, is that

6 lawful or unlawful?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, I'm -- the

9 CFR says you must design and operate a

10 system, right, and to identify

11 suspicious orders. I don't believe it

12 says to halt them.

13 QUESTIONS BY MR. FARRELL:

14 Q. It does?

15 A. In that specific language.

16 Q. It does or does not?

17 A. Does not.

18 Q. Is your interpretation of

19 federal law that you're allowed to ship a

20 suspicious order without conducting due

21 diligence?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. FARRELL:

24 Q. Maybe this explains why

25 McKesson paid a \$150 million fine.

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1 MS. HENN: Objection to form.

2 THE WITNESS: That's what was

3 alleged.

4 QUESTIONS BY MR. FARRELL:

5 Q. So my question to you is: Is

6 that the shipping requirement that you have

7 to halt a suspicious order under federal law

8 until you do due diligence is and always has

9 been the law in the United States of America?

10 MS. HENN: Objection to form.

11 Outside the scope.

12 THE WITNESS: Can you ask that

13 again, please?

14 QUESTIONS BY MR. FARRELL:

15 **Q. The shipping requirement and**

16 **the reporting requirement as outlined in the**

17 **Masters Pharmaceutical case is and always has**

18 **been the law in the United States of America?**

19 MS. HENN: Objection to form.

20 Outside the scope.

21 **THE WITNESS: I believe that's**

22 **the law. I mean...**

23 QUESTIONS BY MR. FARRELL:

24 **Q. Well, you're McKesson --**

25 MS. HENN: Did you finish your

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1 answer?

2 **THE WITNESS: I did. I didn't**

3 **really have a -- yeah.**

4 MS. HENN: Okay. Just making

5 sure.

6 QUESTIONS BY MR. FARRELL:

7 **Q. So your answer is yes?**

8 MS. HENN: Objection to form.

9 **THE WITNESS: Yes.**

10 QUESTIONS BY MR. FARRELL:

11 Q. I don't want to -- I don't want

12 you to hesitate.

13 A. I'm not a legal expert.

14 Q. I'm not asking you to be a

15 legal expert.

16 A. Right.

17 Q. I'm asking McKesson

18 Corporation -- I know this -- to be fair, I

19 understand you are in a role with McKesson

20 being asked to step in the shoes of a

21 corporation and answer on its behalf.

22 A. Right.

23 Q. So I'm not trying to be rude,

24 and I know I'm pressing you.

25 A. Right.

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1 MS. HENN: Objection to form.

2 THE WITNESS: And if you don't

3 follow the law, I would agree.

4 QUESTIONS BY MR. FARRELL:

5 Q. And if you don't follow the

6 reporting requirement, that's the law?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, if you

9 don't follow the law, if you don't

10 follow the guidelines, it would be

11 unlawful.

12 QUESTIONS BY MR. FARRELL:

13 **Q. So when you look at paragraph 7**

14 **of Exhibit 17, the 2007 correspondence from**

15 **McKesson to the DEA, you are announcing that**

16 **you're going to adopt new measures,**

17 **additional measures, revised, amended,**

18 **changed, more measures, to comply with**

19 **federal law?**

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. FARRELL:

22 Q. Agree or disagreed?

23 MS. HENN: Objection to form.

24 **THE WITNESS: We're**

25 **communicating that we were enhancing**

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1 Q. But what I'm trying to do is,

2 for the record, create McKesson's position.

3 And I've asked for McKesson to designate

4 someone to announce its position, and

5 fortunately it's you.

6 So let me repeat the question.

7 **The shipping requirement and the reporting**

8 **requirement as outlined and defined in the**

9 **Masters Pharmaceutical case is and always has**

10 **been the law in the United States of America;**

11 **agree or disagree?**

12 MS. HENN: Object to the form

13 of the question. It's outside the

14 scope.

15 **THE WITNESS: I agree that**

16 **that's the law.**

17 QUESTIONS BY MR. FARRELL:

18 **Q. And if you don't follow the**

19 **law, that makes it unlawful?**

20 MS. HENN: Objection to form.

21 **THE WITNESS: If you don't**

22 **follow a law, that would be unlawful.**

23 QUESTIONS BY MR. FARRELL:

24 **Q. And if you don't follow the**

25 **shipping requirement, that's unlawful?**

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1 **the program.**

2 QUESTIONS BY MR. FARRELL:

3 **Q. In response to allegations that**

4 **you were not fulfilling your obligations**

5 **under the shipping requirement and reporting**

6 **requirement?**

7 MS. HENN: Objection to form.

8 **THE WITNESS: In part due to**

9 **allegations.**

10 QUESTIONS BY MR. FARRELL:

11 Q. Now, this letter is addressed

12 to Linden Barber.

13 Do you know who Linden Barber

14 is?

15 A. I've heard of Linden Barber.

16 Q. How have you heard of him?

17 A. Just in my past experience even

18 prior to McKesson, knowing he was in DEA.

19 Q. Do you know where he is now?

20 A. He's at Cardinal.

21 Q. Cardinal Health?

22 How come you-all didn't hire

23 him?

24 A. I can't speak to that. I don't

25 know. I'm confident in the people we have on

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1 the team.
 2 Q. Paragraph 8: "McKesson will
 3 maintain records of customers that have been
 4 authorized to exceed the monthly thresholds
 5 and document the basis for such decisions."
 6 Do you see that?
 7 A. I do.
 8 Q. Have you reviewed those
 9 records?
 10 MS. HENN: Objection to form.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Where can I find the list of
 13 customers that have been authorized to sell
 14 more than 8,000 pills a month?
 15 MS. HENN: Objection to form.
 16 Outside the scope.
 17 THE WITNESS: I've seen
 18 examples of the checklist or
 19 spreadsheets that notate the review.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Very good.
 22 The spreadsheets. If a
 23 customer -- well, we'll get there in a few
 24 minutes.
 25 A. Performs.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Because I haven't seen any of
 3 these records.
 4 Have you seen these records?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: The records
 7 documenting whatever review was taken
 8 place?
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Yeah, let me -- let me -- let
 11 me make it simple.
 12 I could theoretically show you
 13 that a Rite Aid, in May of 2007 in Akron,
 14 Ohio, ordered 26,000 oxycodone pills. Under
 15 this lifestyle policy, what it seems to
 16 indicate is that that's more than 8,000 a
 17 month.
 18 You'll agree that 26,000 is
 19 more than 8,000?
 20 A. I will agree to that.
 21 Q. And under this policy, you're
 22 not allowed to ship it until you do what?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: A review or some
 25 due diligence.

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1 Q. Yeah. It says here, "This
 2 authority will be reviewed on an ongoing
 3 basis by the distribution center operations
 4 and regulatory staff and periodically
 5 reviewed by corporate regulatory staff."
 6 So the review done by the
 7 distribution center operations and regulatory
 8 staff, have you seen any of those documents?
 9 MS. HENN: Objection to form.
 10 Outside the scope.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Was this implemented?
 13 MS. HENN: Same objections.
 14 THE WITNESS: Which -- there's
 15 two questions there.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. You can answer in either order.
 18 MS. HENN: Objection to form.
 19 THE WITNESS: This is part of a
 20 review process, a tiered review
 21 process, that's started with
 22 distribution manager's review. And
 23 so -- and escalated. It involved
 24 regulatory affairs at times, so, yes,
 25 it was implemented.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. And that due diligence should
 3 be located where?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Leaning in close
 6 to me.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. I'm anticipating the answer.
 9 A. I'm not 100 percent sure where
 10 all of the files were put, as I wasn't in the
 11 distribution center, but in a customer file.
 12 Q. Perfect.
 13 Have you seen the customer
 14 files for Cuyahoga County and Summit County?
 15 A. I have not.
 16 Q. Me either.
 17 Do they exist?
 18 A. I can't speak to that. I don't
 19 know.
 20 Q. Okay. One of the 30(b)(6)
 21 topics that I asked was to talk about these
 22 due diligence files.
 23 You're telling me you haven't
 24 seen any of the due diligence files for any
 25 pharmacy in Summit County and Cuyahoga

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1 County?
 2 MS. HENN: Objection to form.
 3 Outside the scope.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. It's okay if you haven't, and I
 6 don't want you guessing.
 7 A. No, I understand.
 8 I've seen files. I don't know
 9 about files during this time frame with a
 10 Level 1, 2 or 3 review. I can't recall.
 11 Q. Let me ask you this: How --
 12 how many pharmacies in May of 2007, in
 13 Cuyahoga and Summit County, do you reckon
 14 ordered more than 8,000 pills of hydrocodone
 15 or oxycodone?
 16 MS. HENN: Objection to form.
 17 Outside the scope.
 18 THE WITNESS: I don't know.
 19 I'd be guessing.
 20 QUESTIONS BY MR. FARRELL:
 21 **Q. Let's say there's ten. Should**
 22 **there be ten customer files that document why**
 23 **McKesson was exceeding 8,000 pills a month?**
 24 MS. HENN: Objection to form.
 25 **THE WITNESS: There should be**

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1 **Q. Then it would be lawful or**
 2 **unlawful?**
 3 MS. HENN: Objection to form.
 4 **THE WITNESS: It would be**
 5 **unlawful.**
 6 QUESTIONS BY MR. FARRELL:
 7 Q. So it's summarizing altogether.
 8 If in May of 2007 McKesson is shipping to a
 9 pharmacy in Cuyahoga or Summit County,
 10 Cleveland, Ohio, or Akron, Ohio, more than
 11 8,000 pills of hydrocodone or more than 8,000
 12 pills of oxycodone, without conducting a due
 13 diligence review, then McKesson is engaging
 14 in unlawful conduct according to federal law,
 15 agreed?
 16 MS. HENN: Objection to form.
 17 THE WITNESS: Can you ask it
 18 again? I apologize. Let's pause
 19 here. I'm not a lawyer.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. I know you're not. And again,
 22 I'm going to reiterate --
 23 A. There's discretion in how this
 24 due diligence is done and documented, so I'm
 25 trying to understand.

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1 **documentation.**
 2 QUESTIONS BY MR. FARRELL:
 3 Q. And if there was no due
 4 diligence performed but those pills were
 5 still shipped, is that lawful or unlawful?
 6 MS. HENN: Objection to form.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Do you want me to repeat the
 9 question?
 10 A. Sure.
 11 **Q. If, if, if, three ifs, no due**
 12 **diligence was performed, yet McKesson still**
 13 **shipped more than 8,000 oxycodone pills to a**
 14 **pharmacy in Cuyahoga or Summit County in May**
 15 **of 2007, is that lawful or unlawful according**
 16 **to the federal regulations?**
 17 MS. HENN: Objection to form.
 18 QUESTIONS BY MR. FARRELL:
 19 **Q. Why are you struggling with**
 20 **this?**
 21 **A. I'm just thinking. I mean,**
 22 **it's -- if it's -- it wouldn't be lawful.**
 23 **Q. That makes it...**
 24 **A. If there weren't documentation.**
 25 **Or due diligence, excuse me.**

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1 Q. That's right. So -- you're
 2 right. So let me see if I can say it again.
 3 If in May of 2007 McKesson
 4 Corporation is shipping to a pharmacy in
 5 Cuyahoga or Summit County, Cleveland, Ohio,
 6 or Akron, Ohio, more than 8,000 pills of
 7 oxycodone or more than 8,000 pills of
 8 hydrocodone without conducting due diligence,
 9 then McKesson Corporation is engaging in
 10 unlawful conduct according to federal law?
 11 MS. HENN: Object to form.
 12 THE WITNESS: I don't know how
 13 to answer that exactly. It depends.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Depends on what?
 16 **If you ship more than 8,000**
 17 **pills without conducting due diligence,**
 18 **McKesson is engaging in unlawful conduct**
 19 **according to federal law?**
 20 MS. HENN: Objection to form.
 21 Go ahead.
 22 **THE WITNESS: It can be**
 23 **interpreted that way. I mean, it --**
 24 QUESTIONS BY MR. FARRELL:
 25 **Q. Well, the DEA certainly**

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1 interprets it that way, agreed?
 2 A. They have.
 3 Q. And McKesson has paid fines
 4 based on that DEA interpretation, agreed?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: We've paid fines.
 7 Again, we're --
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Based on the allegations by the
 10 DEA that you shipped suspicious orders
 11 without conducting due diligence?
 12 MS. HENN: Objection to form.
 13 Go ahead.
 14 THE WITNESS: Based on those
 15 allegations.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Yes.
 18 A. Right.
 19 Q. The answer is yes?
 20 A. Yes.
 21 Q. See, a yes just gets me moving
 22 faster. Oh, this one's gonna be fun.
 23 MR. FARRELL: Why don't we take
 24 a quick break.
 25 MS. HENN: Okay.

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1 A. This is a presentation given by
 2 Don Walker about -- at a company meeting
 3 about the Lifestyle Drug Program.
 4 Q. And Don Walker at the time
 5 was -- would be working for McKesson?
 6 A. Yes.
 7 Q. So this is a McKesson document?
 8 A. Excuse me, yes.
 9 Q. It's produced in the MDL by the
 10 McKesson lawyers?
 11 A. Yes.
 12 Q. From the McKesson files?
 13 A. Yes.
 14 Q. And is a true and accurate copy
 15 of the presentation given at the national
 16 operations conference in 2007?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Yes, I believe
 19 so. I wasn't there, but I believe so,
 20 yeah.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. So this national operations
 23 conference 2007, this is a conference that is
 24 just for McKesson employees. Is that your
 25 understanding?

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1 VIDEOGRAPHER: The time is
 2 2:08 p.m., and we're going off the
 3 record.
 4 (Off the record at 2:08 p.m.)
 5 VIDEOGRAPHER: The time is
 6 2:20 p.m., and we're back on the
 7 record.
 8 (McKesson-Hartle Exhibit 18
 9 marked for identification.)
 10 QUESTIONS BY MR. FARRELL:
 11 Q. The next exhibit we're going to
 12 have marked is Exhibit 18.
 13 For reference, the top
 14 right-hand corner is 2007_04_XX. The reason
 15 it's XX is the metadata has not yet told me
 16 what day of the month it is.
 17 Do you know what day of the
 18 month this conference was back in 2007?
 19 A. I can't think off the top of my
 20 head, no. Yeah.
 21 Q. The Bates stamp, we have a MDL
 22 Bates stamp of MCKMDL00403340.
 23 Do you recognize this document?
 24 A. I do.
 25 Q. What is it?

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1 A. Yeah, they typically are.
 2 Q. It's from -- Mr. Boggs
 3 testified about it previously. So this was
 4 in 2007. Management basically gets together,
 5 and Don Walker is the senior vice president
 6 of distribution operations, is giving a
 7 presentation on a number of topics in the
 8 form of a PowerPoint slide?
 9 A. Correct.
 10 MS. HENN: Objection to form.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Yes?
 13 A. Correct.
 14 Q. So the title of this is
 15 "Lifestyle Drugs and Internet Pharmacies."
 16 "Lifestyle drugs" is an
 17 interesting choice of words.
 18 Do you know where it came from?
 19 A. It's my understanding that's
 20 the language that was -- the DEA used as well
 21 and had referenced.
 22 Q. Some of the files that I've
 23 seen has the DEA asking McKesson where you
 24 came up with the oxycodone, hydrocodone and
 25 opium pills as lifestyle drugs.

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1 MS. HENN: Objection to form.
 2 THE WITNESS: All I can tell
 3 you is I -- what I've heard is that
 4 it's the term that came from DEA.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. On page 2, it identifies
 7 several different topics: public health
 8 issue, DEA focus, McKesson involvement,
 9 current status, and Lifestyle Drug Monitoring
 10 Program. So these will be our jeopardy
 11 questions today.
 12 Public health issues. Can you
 13 read what the very -- on page 3, can you read
 14 what the first item is?
 15 A. "Abuse of prescription drugs
 16 has risen 66 percent since 2000."
 17 Q. So this is McKesson telling
 18 McKesson employees that we're in the business
 19 of selling opium pills, and abuse has risen
 20 66 percent since 2000.
 21 Does that not give you,
 22 Mr. McKesson Corporation, pause to think
 23 about whether or not your role in the chain
 24 of distribution is contributing to the abuse?
 25 MS. HENN: Objection to form.

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1 trying to make a snarky remark.
 2 MS. HENN: Thank you.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Not everyone is engaged in the
 5 chain of distribution of opium pills, though?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Agree.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. So I'm asking you, McKesson
 10 Corporation, whether or not you have any
 11 regrets about selling so many opium pills.
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: Back to your
 15 question about this, I would -- sure
 16 that gives you pause, I mean, to
 17 understand that there's an epidemic
 18 out there. And clearly there's many
 19 players involved in the flow of
 20 distribution.
 21 QUESTIONS BY MR. FARRELL:
 22 **Q. As of 2007, McKesson is**
 23 **recognizing that opioid painkillers kill more**
 24 **than cocaine and heroin combined, agreed?**
 25 MS. HENN: Objection to form.

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1 THE WITNESS: Can you ask that
 2 again, please?
 3 QUESTIONS BY MR. FARRELL:
 4 Q. This is McKesson telling
 5 McKesson employees that abuse of prescription
 6 drugs has risen 66 percent since the year
 7 2000.
 8 Does that not give you,
 9 Mr. McKesson Corporation, pause to think
 10 about whether or not your role in the chain
 11 of distribution is contributing to such
 12 abuse?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: I think it's --
 15 it should give everybody pause that
 16 that was the trend that was going on,
 17 and it's a piece of information shared
 18 with leaders to inform them. So --
 19 QUESTIONS BY MR. FARRELL:
 20 Q. But not everybody is selling
 21 opium pills; McKesson is.
 22 MS. HENN: Counsel, can we just
 23 make sure we let the witness finish
 24 his answers?
 25 MR. FARRELL: Sure. I was

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1 **THE WITNESS: Agree.**
 2 QUESTIONS BY MR. FARRELL:
 3 Q. And these are McKesson's words.
 4 Where is McKesson getting this
 5 data from?
 6 MS. HENN: Objection to form.
 7 Outside the scope.
 8 THE WITNESS: I don't know
 9 specifically where they -- their
 10 source of data for that particular
 11 line, but information from different
 12 sources. Could be DEA, could be CDC,
 13 it could be wherever.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. It says here, "Rogue Internet
 16 pharmacies distributing oxycodone,
 17 hydrocodone, phentermine and alprazolam," yet
 18 McKesson was selling to rogue Internet
 19 pharmacies, true?
 20 MS. HENN: Objection to form.
 21 Outside the scope.
 22 THE WITNESS: Can you ask that
 23 again, please?
 24 QUESTIONS BY MR. FARRELL:
 25 Q. McKesson is noting that rogue

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1 Internet pharmacies are selling oxycodone and
 2 hydrocodone, yet what's missing from this
 3 slide is the fact that McKesson was supplying
 4 the pills to the rogue Internet pharmacies.
 5 MS. HENN: Objection to form.
 6 THE WITNESS: And what's your
 7 specific question again?
 8 QUESTIONS BY MR. FARRELL:
 9 Q. What gives?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: I don't know what
 12 type of response a "what gives"
 13 question is.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Yeah. You're noting that
 16 people are dying, and part of the reason is
 17 that rogue Internet pharmacies are out there.
 18 Yet McKesson, during this time frame, is
 19 selling to some of those very same Internet
 20 pharmacies, and that's what the DEA fined you
 21 for.
 22 So is this ignorance of who
 23 you're selling to? Is this repackaging,
 24 reframing the issue? Or is it just flat out
 25 a misrepresentation?

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1 QUESTIONS BY MR. FARRELL:
 2 Q. You understand that to be true?
 3 A. -- I understand that to be
 4 true.
 5 Q. So McKesson Corporation admits
 6 it was selling oxycodone and hydrocodone to
 7 rogue Internet pharmacies in and around 2007?
 8 MS. HENN: Objection to form.
 9 Outside the scope.
 10 THE WITNESS: Again, I don't
 11 know the specific examples and --
 12 QUESTIONS BY MR. FARRELL:
 13 Q. I'm not asking for specific
 14 examples.
 15 A. Right.
 16 Q. I'm asking you to confirm that
 17 in 2007, McKesson Corporation was selling
 18 oxycodone and hydrocodone to rogue Internet
 19 pharmacies.
 20 MS. HENN: Objection to form.
 21 And, Counsel, I'll just ask you
 22 to let him finish his answers so that
 23 he can get his answers out.
 24 MR. FARRELL: Yes, ma'am.
 25 THE WITNESS: Again, I don't

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1 MS. HENN: Objection to form.
 2 Outside the scope.
 3 THE WITNESS: This is raising
 4 awareness in -- about the issues that
 5 are the public health issues,
 6 communicating with leaders and sharing
 7 the -- where McKesson is enhancing the
 8 program.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. But you understand that the
 11 rogue Internet pharmacies were getting their
 12 pills from, among other people, McKesson,
 13 agreed?
 14 A. I understand.
 15 MS. HENN: Objection to form.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Agreed?
 18 A. I understand. Agreed.
 19 Q. I'm asking if you understand.
 20 I want you to confirm that the rogue Internet
 21 pharmacies were in fact getting some of their
 22 pills from McKesson.
 23 MS. HENN: Objection to form.
 24 THE WITNESS: I don't have
 25 specific details on that, but --

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1 have the specific examples. I believe
 2 that to be true, but I don't know the
 3 specific details.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. The next page, page 4,
 6 "Internet pharmacies." It says,
 7 "Investigative work hours have doubled."
 8 Do you know what it doubled
 9 from or to?
 10 A. I do not.
 11 Q. "Cutting supply critical to
 12 success."
 13 What does that mean?
 14 A. I don't know. I don't know
 15 what the speaking points or -- it's one
 16 bullet. I'm not sure how it was represented
 17 or communicated.
 18 Q. Do you know what price
 19 diversion is?
 20 A. Not specifically.
 21 Q. Was McKesson at this time
 22 considering that some of the Internet
 23 pharmacies were competing with McKesson for
 24 business?
 25 MS. HENN: Objection to form.

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1 THE WITNESS: I do not know.
 2 Pricing is not my area.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Okay. It says, "Wholesalers.
 5 DEA expects that you know your customers."
 6 What does that mean? It's in
 7 quotations.
 8 A. Right.
 9 MS. HENN: Objection to form.
 10 MR. FARRELL: Well, it is in
 11 quotations, isn't it?
 12 MS. HENN: I was objecting to
 13 asking what DEA means when they said
 14 "know your customers." That was what
 15 was my objection.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. So McKesson is writing a slide
 18 following a meeting with the DEA, reporting
 19 to the DEA employees what the DEA's focus
 20 was, and what McKesson is reporting is that
 21 the DEA expects you to know your customers.
 22 Is that fair?
 23 A. That's fair.
 24 Q. And when we do, quote, "know
 25 our customers," end quote, that's a tag line

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1 Go ahead.
 2 **THE WITNESS: That's what**
 3 **the -- that's what the DEA expects, I**
 4 **guess, yeah.**
 5 QUESTIONS BY MR. FARRELL:
 6 **Q. Does McKesson acknowledge that**
 7 **it is accountable for controlling the**
 8 **quantities of opium pills shipped to American**
 9 **pharmacies?**
 10 **A. We're accountable as a**
 11 **distributor.**
 12 Q. The next thing says, "5,000
 13 dose units is average."
 14 The average American pharmacy
 15 in 2007, as reported by the DEA to McKesson,
 16 was that 5,000 doses of oxycodone or 5,000
 17 doses of hydrocodone was average.
 18 A. That's what the DEA -- DEA
 19 calculations.
 20 Q. And McKesson at least validated
 21 that number by repeating it on a slide to the
 22 national operations conference in 2007.
 23 MS. HENN: Objection to form.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Agreed?

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1 for distributors with regard to knowing the
 2 customers you're selling opium pills to?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: That is a DEA tag
 5 line.
 6 QUESTIONS BY MR. FARRELL:
 7 **Q. And then the next sentence, can**
 8 **you read it out loud, please?**
 9 **A. The next bullet?**
 10 **Q. Yes.**
 11 **A. "Wholesalers accountable for**
 12 **controlling quantities shipped."**
 13 Q. Is that true or not true?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Can you add a
 16 little more context to your question?
 17 I know it's a true/false question,
 18 but --
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Yes.
 21 **The DEA expects the wholesalers**
 22 **to be accountable for controlling quantities**
 23 **that they ship.**
 24 **Is that fair or unfair?**
 25 MS. HENN: Objection to form.

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1 A. I wouldn't say that they
 2 validated. We just repeated what was shared.
 3 Q. Did McKesson undertake any
 4 investigation to determine what the average
 5 was itself?
 6 A. I believe they did. I can't
 7 speak to the examples, but we've used
 8 analysts and reviewed data when developing
 9 thresholds and...
 10 Q. Does McKesson acknowledge that
 11 in 2007 5,000 dose units was average in the
 12 United States of America?
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 THE WITNESS: We acknowledge
 16 that's what the DEA shared. I mean,
 17 there's many ways to get averages.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Sitting here today, does
 20 McKesson Corporation have any reason to
 21 disagree or dispute the DEA's estimation of
 22 what the average dose unit was?
 23 MS. HENN: Objection to form.
 24 Outside the scope.
 25 THE WITNESS: What I would

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1 share is I believe that average is a
 2 very rudimentary average, all
 3 pharmacies divided by pills, and so it
 4 doesn't account for different pharmacy
 5 size. So it's the number that is the
 6 result of that basic calculation.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. And as we saw from your prior
 9 correspondence, McKesson was relying upon
 10 that average when it estimated its threshold
 11 of 8,000 units per month per pharmacy?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: It was using that
 14 data point. I mean not relying on
 15 that number solely but using that as
 16 one data point.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. So the answer is yes?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Not yes to that
 21 fact we relied on it. We used the
 22 data point.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. So McKesson Corporation used
 25 the 5,000 dose unit as an average supplied

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1 is talking about a November 5th
 2 correspondence.
 3 A. I don't recall.
 4 Q. The next one, "January 6, 2007,
 5 meeting with DEA in Washington, DC."
 6 And would you read what the
 7 bullet point says?
 8 A. "Clear message from DEA."
 9 Q. So at this point in time,
 10 McKesson is acknowledging to its entire
 11 national operations conference that the
 12 message they're receiving from the DEA was
 13 clear?
 14 MS. HENN: Objection to form.
 15 Outside the scope.
 16 THE WITNESS: Like parts of the
 17 message, sure.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So which parts were unclear?
 20 A. I don't know all of the message
 21 that were communicated from DEA and how they
 22 were communicated.
 23 Q. We can start with the
 24 November 2006 letter from Joe Rannazzisi.
 25 Certainly if there was some unclear message

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1 the DEA as a data point when it set a
 2 threshold of 8,000 units per pharmacy per
 3 month?
 4 A. I would say that's fair.
 5 Q. The next page, page 5,
 6 "McKesson Involvement, September 5th DEA
 7 meeting in Washington, DC, outlined Internet
 8 issue."
 9 Have you reviewed any documents
 10 pertaining to that meeting or the Internet
 11 issue that's being referenced?
 12 A. I don't believe so.
 13 Q. Neither have I, because it
 14 hasn't been produced, because I'm sure
 15 counsel is going to argue it falls outside of
 16 Discovery Decision Number 3.
 17 The next one, "November 5, DEA
 18 notified McKesson, six pharmacies in Florida,
 19 excessive hydrocodone."
 20 Have you seen that
 21 correspondence?
 22 A. I can't recall if I've seen
 23 that specific one.
 24 Q. You thinking about the one we
 25 just read? That was April of 2007. This one

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1 that was being sent, it would be at least
 2 like a footnote here, right? Instead it
 3 says, "Clear message from DEA."
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: I don't know that
 7 I -- I don't know what was
 8 specifically discussed in that
 9 specific meeting, so I don't know the
 10 types of messages that were shared in
 11 that meeting.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. As of April of 2007, which we
 14 believe to be the date of this conference,
 15 have you seen any documentation anywhere in
 16 the records of McKesson Corporation that
 17 indicate that any message from the DEA to
 18 date had been unclear?
 19 MS. HENN: Objection to form.
 20 Outside the scope.
 21 THE WITNESS: Have I seen
 22 formal documentation where somebody
 23 said DEA was unclear?
 24 QUESTIONS BY MR. FARRELL:
 25 Q. That was my question, yes.

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1 A. I have not seen any of that
 2 documentation.
 3 Q. "October '06, order to show
 4 cause. Response, settle."
 5 That's the message McKesson is
 6 telling its national operations conference,
 7 is they get an order to show cause from the
 8 DEA, and your response is to enter into a
 9 memorandum of understanding?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: I don't know what
 12 the context of the communication at --
 13 this is one bullet point at a meeting
 14 presented to a group. So there's
 15 certainly speaking points and an
 16 explanation. I -- so...
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Fair enough.
 19 Next page, page 6, "Current
 20 Status, April '07, meeting with DEA
 21 attorneys. What we have done: Created new
 22 report in process."
 23 This gets back to my earlier
 24 questions of this new process is the
 25 Lifestyle Drug Monitoring Program?

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1 this is what you're going to do to fulfill
 2 your obligations under federal law.
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I'd say that's
 5 what we're doing to enhance our
 6 knowledge of our customers and meet
 7 our requirements and enhance our
 8 program.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. You're making it sound like
 11 this was just a voluntary effort out of the
 12 thin air. This was in response to the DEA
 13 charging McKesson with misconduct.
 14 MS. HENN: Objection to form.
 15 THE WITNESS: I understand
 16 that.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. You agree?
 19 A. Agree.
 20 Q. Now, page 9, "Daily dosage
 21 summary report." This is an important point,
 22 "8,000 dose unit threshold." But above
 23 that -- next page, not 8, the next page.
 24 A. 9?
 25 Q. Yeah.

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1 A. Correct.
 2 Q. It's a new process?
 3 A. It is.
 4 Q. Not a revision, not an
 5 amendment, not a modification, not a --
 6 what's the other word you used?
 7 A. I called it an addition to the
 8 existing program.
 9 Q. Okay.
 10 A. An enhancement.
 11 Q. Next page, page 7, "Establish
 12 threshold for excessive quantities, 8,000
 13 dose units. Thorough due diligence of
 14 customers exceeding threshold."
 15 You agree this is, in fact,
 16 what the law requires?
 17 MS. HENN: Objection to form.
 18 Outside the scope.
 19 THE WITNESS: Could you ask
 20 that again? This -- is it this
 21 specific bullet you're talking about?
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Yeah, this is McKesson's
 24 Lifestyle Drug Monitoring Program, which is
 25 an action plan submitted to the DEA to show

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1 "8,000 dose unit threshold,
 2 generic base code." What this means is is
 3 that McKesson, when its calculating the
 4 threshold, is doing it by generic base code,
 5 meaning you don't get 8,000 oxy 10s and 8,000
 6 oxy 20s and 8,000 oxy 40s; you get 8,000
 7 oxy.
 8 A. Correct. With that base
 9 ingredient.
 10 Q. Based on a four-digit base code
 11 that -- provided by the DEA?
 12 A. Yes.
 13 (McKesson-Hartle Exhibit 19
 14 marked for identification.)
 15 QUESTIONS BY MR. FARRELL:
 16 Q. We'll mark as 19, top
 17 right-hand corner is 2007_5_15, Bates-stamped
 18 MCKMDL00337303.
 19 Is this, in fact, the Lifestyle
 20 Drug Monitoring Program at McKesson?
 21 A. Yes.
 22 Q. Do you recognize this document
 23 as a true and authentic version of the
 24 Lifestyle Drug Monitoring Program?
 25 A. I do.

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1 Q. And is it a document kept in
 2 the regular course of business and produced
 3 by your lawyers in this litigation?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: Yeah.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. You'll note under "reports,"
 8 under "generic ingredient, base code and
 9 dosage threshold," it's again affirming what
 10 you've told the DEA you're going to do, and
 11 that is you're going to set 8,000 doses as
 12 the threshold per base code.
 13 A. Correct.
 14 Q. The bottom right-hand corner,
 15 you'll see a date generated.
 16 What does it say?
 17 A. May 16, 2007.
 18 (McKesson-Hartle Exhibit 20
 19 marked for identification.)
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Exhibit 20, top right-hand
 22 corner, 2007_06_12, Bates-stamped
 23 MCKMDL00355527.
 24 I'll represent to you again,
 25 this was produced by your counsel in this

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1 It says, "Pharmaceutical
 2 wholesalers, including McKesson, are being
 3 held accountable for controlling the
 4 quantities of these drugs -- quantities of
 5 these drugs shipped to customers and will be
 6 held responsible for reviewing trends as
 7 indicated by the customer's order history."
 8 This is 2007, in an
 9 acknowledgement by McKesson that it will be
 10 held accountable for excessive orders,
 11 agreed?
 12 MS. HENN: Objection to the
 13 form.
 14 THE WITNESS: Agreed.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. And then the next paragraph you
 17 go so far as to say, "Shipment and monitoring
 18 of these drugs will be measured by dose units
 19 rather than sale units, with 8,000 dose units
 20 as the threshold for excessive quantities."
 21 So again, this is a recognition
 22 that above 8,000 units of oxycodone and
 23 hydrocodone is presumptively excessive, which
 24 will trigger your three-level due diligence?
 25 A. Correct.

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1 litigation. It is another communication
 2 dated June 12, 2007, by McKesson's lawyer to
 3 the DEA. And this is an update regarding the
 4 progress of the implementation of the
 5 Lifestyle Drug Monitoring Program.
 6 In the second sentence it
 7 states, "As I stated in our last
 8 conversation, McKesson has implemented this
 9 program nationally, in quote, across its 30
 10 distribution centers throughout the country."
 11 Again, does this imply to you
 12 that you were not implementing a national
 13 policy prior to this?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: It implies we
 16 weren't implementing this specific new
 17 policy across the country.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Page 21 is a copy of a sample
 20 letter you told the DEA you were sending
 21 across the country. And in the second full
 22 paragraph, starting with the word
 23 "pharmaceutical," it says --
 24 A. I'm sorry, what page was that?
 25 Q. Page 21.

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1 Q. The following page, page 22, is
 2 an actual declaration, an affidavit that
 3 you're asking people to sign about the
 4 reasons they want to sell more than 8,000
 5 pills.
 6 A. Correct.
 7 Q. And on page 25 is a pharmacy
 8 questionnaire presumably sent to every
 9 pharmacy in the country that was a customer
 10 of McKesson, asking for certain data about
 11 the controlled substances they're purchasing
 12 from McKesson.
 13 MS. HENN: Objection to form.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. This is what you're telling the
 16 DEA that you'll be doing from here on out
 17 starting in 2007.
 18 A. I don't know if this pharmacy
 19 questionnaire was sent to every single
 20 pharmacy. Chains are a little bit different.
 21 Q. I think we'll get into that
 22 tomorrow.
 23 A. Okay. I'm sure we will.
 24 Q. But in general, you're sending
 25 it out to all the independent pharmacies at

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1 least, agreed?

2 A. I actually don't know what the

3 schedule was and the communication plan. And

4 if you can point me to where we...

5 Q. All I'm suggesting is that you

6 were telling the DEA that you're going to be

7 these things.

8 A. We're going to use

9 questionnaires to gather more information on

10 our customers.

11 Q. Right.

12 (McKesson-Hartle Exhibit 21

13 marked for identification.)

14 QUESTIONS BY MR. FARRELL:

15 Q. Next document is 21. Top

16 right-hand corner, 2007_11_26. This is a

17 February 2008 PowerPoint presentation

18 entitled "Controlled Substance Monitoring

19 Program, CSMP, Implementation Strategy -

20 Regulatory Review Document."

21 Have you seen this document

22 before?

23 A. I don't believe I've seen this

24 document.

25 Q. All right.

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1 Monitoring Program. It's going to be a pilot

2 program in Denver in March of 2008 and then

3 rolled out across the country?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes, it's going

6 to be an enhancement to the Lifestyle

7 Drug Monitoring Program, piloted,

8 rolled out, ultimately replaces.

9 QUESTIONS BY MR. FARRELL:

10 Q. What's the main difference

11 between the CSMP in 2008 and Lifestyles 2007?

12 A. The main difference is the

13 addition of -- expanding upon that threshold

14 concept. In the Lifestyle Drug Monitoring

15 Program there's four base codes that are

16 used, and those trigger reports.

17 The CSMP establishes a

18 threshold for every single base code for all

19 controlled substances, and it is a hard stop,

20 block -- you know, if a customer exceeds --

21 attempts to exceed that threshold, it is a

22 hard stop and block of that order. So it

23 really takes the threshold concept to the

24 next level.

25 Q. I thought we were already

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1 A. No.

2 Q. It's my understanding that the

3 CSMP was going to replace the Lifestyles

4 program?

5 A. Correct.

6 Q. And this document is talking

7 about in March of 2008 you're going to be

8 implementing pilot programs and then rolling

9 it across the country?

10 MS. HENN: Objection to form.

11 QUESTIONS BY MR. FARRELL:

12 Q. Why it's called "Denver Pilot"

13 at the top.

14 My question to you is: Why did

15 you replace --

16 A. Can I finish reading this?

17 Q. Sure.

18 A. Pretty quickly. Thank you.

19 Okay. Thank you.

20 Q. Yeah.

21 So you agree with what I said?

22 A. You'll need to restate whatever

23 you said.

24 Q. It appears that the -- this

25 CSMP is the replacement to the Lifestyle Drug

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1 blocking excessive purchases above 8,000 in

2 the absence of due diligence.

3 A. It's a systematic block. The

4 system is blocking it.

5 Q. Troy wants to know what that

6 means.

7 A. What a systematic block means?

8 It means exactly what it -- it's done by the

9 system. So a customer orders, orders

10 accumulate against their threshold amount,

11 and if an order goes over the threshold

12 amount or would put them over the threshold

13 amount, the system by itself recognizes that,

14 blocks it, does not ship it.

15 (McKesson-Hartle Exhibit 22

16 marked for identification.)

17 QUESTIONS BY MR. FARRELL:

18 Q. This is Exhibit 22. Top right,

19 2007_12_6, Bates-stamped MCKMDL00355041.

20 This is another version of the Lifestyle Drug

21 Monitoring Program, and what I'm -- you may

22 not know the answer to this, but on the very

23 last page, page 10, it has revision 1.7 dated

24 December 6, 2007, added threshold guidelines.

25 But then when you look on page 1, it appears

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1 to have removed the thresholds for oxycodone
 2 and hydrocodone.
 3 Can you help me understand
 4 that?
 5 A. Sure.
 6 There were components of the
 7 Lifestyle Drug Monitoring Program that
 8 carried over into the CSMP, i.e., the level
 9 1, 2, 3 reviews.
 10 What changed from a threshold
 11 perspective is that in the Lifestyle Drug
 12 Monitoring Program it was just those four
 13 base codes, and it was to generate reports
 14 when orders would -- went over that amount
 15 and -- to trigger the due diligence review.
 16 And so the CSMP, in essence,
 17 for these four base codes, these became hard
 18 coded thresholds in the new program. And so
 19 it's really just a transition of certain
 20 elements of the Lifestyle Drug Program into
 21 the next one, if that helps, if that makes...
 22 (McKesson-Hartle Exhibit 23
 23 marked for identification.)
 24 QUESTIONS BY MR. FARRELL:
 25 **Q. Next document, Exhibit 23,**

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1 A. It came us.
 2 Q. You're just acknowledging you
 3 received this letter?
 4 A. Correct.
 5 Q. All right. We can walk through
 6 this entire letter, but I'm going to first
 7 start broadly.
 8 Does McKesson acknowledge that
 9 the facts and guidelines set forth in the
 10 2007 Rannazzisi letter are true and an
 11 accurate representation of the obligations
 12 McKesson has under federal law?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: Can you ask that
 15 question again?
 16 QUESTIONS BY MR. FARRELL:
 17 Q. Yeah.
 18 This is the second time the DEA
 19 is writing a dear registrant letter to
 20 everybody in the country.
 21 A. Understood.
 22 Q. Basically what it's saying is,
 23 you people still aren't getting it; here's
 24 what your obligations are under federal law.
 25 And it includes the duty to

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1 **2007_12_27, Bates stamp MCKMDL00478910. This**
 2 **is the December 27, 2007 Rannazzisi letter.**
 3 **Do you recognize this document?**
 4 A. I do.
 5 Q. McKesson Corporation
 6 acknowledges receipt of this communication
 7 from the DEA dated December 27, 2007,
 8 correct?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: Yes, we received
 11 it.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. This is a true and authentic
 14 version of the McKesson letter?
 15 A. I believe so.
 16 Q. And you kept it in the routine
 17 business of collecting records,
 18 record-keeping at McKesson?
 19 A. I can't speak to where this was
 20 stored and -- I don't know, but --
 21 Q. But it came from McKesson; it's
 22 got your Bates stamp on it?
 23 A. I may be a little confused on
 24 your question.
 25 Q. I just want you to validate --

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1 halt suspicious orders, perform due diligence
 2 and report when necessary to the DEA, agreed?
 3 MS. HENN: Objection to form.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. Could it be any clearer?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: It's the same
 8 information they've shared before,
 9 with some additions.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. And it's clear, you have a duty
 12 to halt suspicious orders, perform due
 13 diligence and report when necessary.
 14 This is an affirmation a decade
 15 preceding the shipping requirement and the
 16 reporting requirement in the Masters
 17 Pharmaceutical case, agreed?
 18 MS. HENN: Objection to form.
 19 THE WITNESS: You rolled a
 20 couple things in there together. Can
 21 you ask me -- what's the specific
 22 question?
 23 QUESTIONS BY MR. FARRELL:
 24 **Q. This is a 2007 letter, which**
 25 **predates the Masters Pharmaceutical case by a**

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1 decade. And I'm asking you whether or not
 2 you agree that this letter sets forth the
 3 shipping requirements and the reporting
 4 requirements as outlined in Masters
 5 Pharmaceutical.

6 MS. HENN: Objection to form.

7 THE WITNESS: I'm going to read

8 this again just so --

9 QUESTIONS BY MR. FARRELL:

10 Q. Sure.

11 The second to the last

12 paragraph is probably the most helpful.

13 A. What's that?

14 Q. The second to last paragraph

15 may be the most helpful.

16 A. On the very last -- okay.

17 Before I get there --

18 Q. It states, "Lastly, registrants

19 that routinely report suspicious orders, yet

20 fill these orders without first determining

21 that order is not being diverted, may be

22 failing to maintain effective controls

23 against diversion."

24 It's what you and I have been

25 talking about for the last two hours,

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1 up in a -- basically a photocopy version like
 2 you're seeing here, but there's also a native
 3 format, which is actually the PowerPoint.

4 A. Okay.

5 Q. And so what I'm showing you on

6 the screen is the same exact document, and

7 the only reason I produced it in native

8 format is that at the very bottom of each of

9 the pages, except for the first one, there's

10 a date.

11 MR. FARRELL: So if you flip to

12 the next page on the screen up there,

13 Corey.

14 MS. HENN: Do you want to just

15 hand the copy over --

16 MR. FARRELL: Yeah.

17 MS. HENN: -- if that's easier?

18 MR. FARRELL: I just want you

19 to affirm the date on it.

20 MS. HENN: And do you have like

21 an identifier? I know for these kinds

22 of native documents --

23 MR. FARRELL: Not that I can

24 figure out. I'm not that good.

25 MS. HENN: All right.

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1 correct?

2 A. Correct.

3 Q. This is an accurate statement

4 of federal law from the DEA to McKesson,

5 agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agreed.

8 QUESTIONS BY MR. FARRELL:

9 Q. This is the same thing the DC

10 Circuit Court of Appeals said in 2017,

11 agreed?

12 MS. HENN: Objection to form.

13 THE WITNESS: Agreed.

14 QUESTIONS BY MR. FARRELL:

15 Q. I don't need to put this in

16 there. But backing up to the last exhibit we

17 had from February of 2008, can you pull that

18 up?

19 MS. HENN: You talking about

20 Exhibit 21?

21 MR. FARRELL: Yes.

22 QUESTIONS BY MR. FARRELL:

23 Q. I'm going to represent to you

24 that the way that we pull these documents up

25 on the electronic system is you can pull it

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1 THE WITNESS: So what do you

2 need me to do? What are you asking?

3 QUESTIONS BY MR. FARRELL:

4 Q. What the date is.

5 A. On the front page?

6 Q. On the color version, on page 2

7 maybe.

8 A. Oh, on the bottom? 11/26 of

9 '07. November 26, 2007.

10 (McKesson-Hartle Exhibit 24

11 marked for identification.)

12 QUESTIONS BY MR. FARRELL:

13 Q. Okay. The next exhibit is

14 going to be Exhibit 24. It's 2008_03_10.

15 It's another PowerPoint presentation at the

16 Denver sales meeting, March 10, 2008.

17 Have you seen this document

18 before?

19 A. I do not believe I've seen this

20 one.

21 Q. It has a bunch of redacted

22 stuff in here.

23 MR. FARRELL: Counsel, do you

24 know if that was recorded in the

25 privilege log?

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1 MS. HENN: I don't know off the
 2 top of my head, but we can certainly
 3 check.
 4 MR. FARRELL: I think that's
 5 the main reason. It basically is
 6 talking about your CSMP, the
 7 three-level review, and the rollout
 8 with a bunch of stuff redacted. I
 9 just wanted to put it in the record so
 10 we can fool with it later.
 11 MS. HENN: Is this a good --
 12 the witness would like a break.
 13 MR. FARRELL: Sure.
 14 MS. HENN: Could we just maybe
 15 pause for just five minutes?
 16 MR. FARRELL: Yep.
 17 VIDEOGRAPHER: The time is
 18 3:08 p.m. We're going off the record.
 19 (Off the record at 3:08 p.m.)
 20 VIDEOGRAPHER: The time is
 21 3:16 p.m. We're back on the record.
 22 (McKesson-Hartle Exhibit 25
 23 marked for identification.)
 24 QUESTIONS BY MR. FARRELL:
 25 **Q. We'll mark Exhibit 25. It's a**

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1 QUESTIONS BY MR. FARRELL:
 2 Q. And I'll acknowledge on page 2
 3 the middle whereas clause that McKesson
 4 denied doing anything wrong.
 5 Sitting here today, McKesson
 6 continue to assert that it did nothing wrong
 7 despite the fact that it paid a fine in 2008?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: We do. I believe
 10 we were in good faith working with DEA
 11 and denied the allegations.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. So you deny you did anything
 14 wrong. You deny you broke the law?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: I stand behind
 17 what's in this document.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. Now, you weren't at McKesson,
 20 but you're sitting here as McKesson, so
 21 you're taking the position that's in the
 22 document: We didn't do anything wrong.
 23 But you acknowledge that at
 24 least in 2008 the DEA -- it's beyond doubt
 25 now what the DEA could possibly mean when

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1 **2008_05_02, Bates stamp MCKMDL00355561.**
 2 **Do you recognize this document?**
 3 **A. I do.**
 4 **Q. What is it?**
 5 **A. It's the settlement agreement**
 6 **from 2008.**
 7 **Q. Between?**
 8 **A. Between McKesson and the DEA,**
 9 **DOJ.**
 10 **Q. Settling what?**
 11 **A. Settling allegations of things**
 12 **related to our responsibilities as a**
 13 **distributor.**
 14 Q. Right.
 15 So you'll forgive me for
 16 spending so much time for the last several
 17 hours building up to the duties and
 18 responsibilities under the federal
 19 regulations, leading up to May 2, 2008, where
 20 you signed a memorandum -- administrative
 21 memorandum of agreement paying a \$13 million
 22 fine for allegedly violating all of those
 23 rules we've been discussing.
 24 MS. HENN: Objection to form.
 25

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1 they want you to fulfill your obligations
 2 under federal law, agreed?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: It is beyond
 5 doubt -- can you say that again?
 6 Rephrase it?
 7 QUESTIONS BY MR. FARRELL:
 8 Q. I can rephrase it, yes.
 9 A. Yeah.
 10 Q. I'm trying to establish whether
 11 or not McKesson Corporation believes as of
 12 May 2, 2008, the DEA could be any clearer
 13 about its expectations of McKesson
 14 Corporation under the federal regulations
 15 related to the distribution of opium pills.
 16 MS. HENN: Objection to form.
 17 Outside the scope.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. I can walk through all of the
 20 various communications leading up to this,
 21 but you'll agree with me there was a 2006
 22 letter, a 2007 letter, there were
 23 presentations, there were meetings, there was
 24 a rule to show cause, there's a settlement
 25 agreement, you got fined \$13 million.

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1 Nobody, no reasonable person,
 2 could say that the DEA failed to tell
 3 McKesson what the rules of the road were.
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: I agree that they
 7 mentioned that in many -- in many ways
 8 and many times. There's still -- you
 9 know, there are areas of the
 10 regulation that are still unclear, and
 11 DEA does not provide clear guidance on
 12 what is an order of unusual size,
 13 frequency and pattern. They put that
 14 back on the distributors to design our
 15 own.
 16 So they're not -- they're clear
 17 on that guidance, but not on how to do
 18 it all the time.
 19 QUESTIONS BY MR. FARRELL:

20 Q. All right. So it's clear in
 21 2008 what they're telling the DEA -- telling
 22 McKesson is that whatever you're doing, we
 23 think it's not enough?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: It's clear that

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Yes.
 3 Would you be a moron if you
 4 took the position out of May 2, 2008, that
 5 the DEA was unclear as to whether or not you
 6 could ship a suspicious order?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 THE WITNESS: I wouldn't call
 10 anybody a moron, but it's clear what
 11 they expect.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. And they expect what?
 14 A. To design and operate a system
 15 to disclose suspicious orders.
 16 Q. And?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: And report.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. And?
 21 MS. HENN: Same objection.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Is it clear whether or not you
 24 can ship a suspicious order without
 25 conducting due diligence?

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1 that's what they were alleging.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. And one of the things that's
 4 clear is that you have a duty to halt
 5 suspicious orders and perform due diligence.
 6 Is there any reasonable person
 7 in the United States of America as of 2008
 8 could possibly argue that it's unclear
 9 whether or not you should halt a suspicious
 10 order before shipping?
 11 MS. HENN: Objection to form.
 12 THE WITNESS: I can't speak for
 13 all reasonable people in the US.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Well, what if somebody came up
 16 and said, "We don't know whether or not we
 17 have a duty to halt before shipping a
 18 suspicious order," what you say to them as of
 19 May 2, 2008, on the heels of paying
 20 \$13 million to the DEA?
 21 MS. HENN: Objection to form.
 22 Outside the scope.
 23 THE WITNESS: Can you ask that
 24 again?
 25

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1 MS. HENN: Objection to form.
 2 Outside the scope.
 3 THE WITNESS: I think it
 4 depends. It's -- there are other
 5 types of suspicious order systems.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. I understand. I'm just trying
 8 to take it from a very basic standpoint.
 9 Could the DEA have made it any
 10 clearer that McKesson has a duty to monitor
 11 and detect suspicious orders?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: To monitor and
 15 detect suspicious orders.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. That's what it says.
 18 A. Very clear.
 19 Q. Could they have been any
 20 clearer that if you get a suspicious order,
 21 you can't just ship it?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: That's clear.
 25

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1 QUESTIONS BY MR. FARRELL:

2 **Q. Clear or very clear?**

3 MS. HENN: Objection to form.

4 **THE WITNESS: It's very clear.**

5 QUESTIONS BY MR. FARRELL:

6 Q. Can you report the suspicious

7 order to the DEA and still ship it?

8 MS. HENN: Objection to form.

9 Outside the scope.

10 THE WITNESS: Can you ask that

11 one again or restate it?

12 QUESTIONS BY MR. FARRELL:

13 Q. Can you report the suspicious

14 order to the DEA and still ship it?

15 MS. HENN: Same objections.

16 THE WITNESS: Without due

17 diligence or some sort of review?

18 QUESTIONS BY MR. FARRELL:

19 Q. If you're reporting a

20 suspicious order to the DEA, what are you

21 doing?

22 MS. HENN: Objection to form.

23 THE WITNESS: Okay. Can we

24 start with the original question? I'm

25 getting a little -- I want to make

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1 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. I'll mark Exhibit 26. Top

4 right is 2008_07_031. It's Bates stamp

5 MCK-HOI-002-0000042.

6 Have you seen this document

7 before?

8 A. Yes, I have.

9 Q. And what is it?

10 A. This is a PowerPoint.

11 Q. Made by who?

12 A. By McKesson.

13 Q. For purposes of?

14 A. Discussion with DEA.

15 Q. Regarding?

16 A. Our controlled substance

17 monitoring program.

18 Q. And it's dated when?

19 A. It's dated July 31, 2008.

20 Q. So this is before or after your

21 settlement agreement with the DEA?

22 A. Shortly after.

23 Q. So that must have been kind of

24 awkward, right, your coming in after paying

25 the fine?

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1 sure I'm going to answer your question

2 right --

3 QUESTIONS BY MR. FARRELL:

4 Q. Yeah, I'm going to show you --

5 A. -- the right question.

6 Q. I'm going to show you here in a

7 few minutes some of your brethren who still

8 haven't gotten the message by May 2008, and

9 I'm trying to see if you'll call them morons.

10 So what I'm asking you is from

11 McKesson's corporation, is it clear by May 2,

12 2008, you -- the shipping requirement and the

13 reporting requirement?

14 MS. HENN: Objection to form.

15 Outside the scope.

16 THE WITNESS: That's how we

17 designed our program, and that's what

18 we believed it to be.

19 QUESTIONS BY MR. FARRELL:

20 Q. Based on federal law?

21 MS. HENN: Objection to form.

22 THE WITNESS: Based on the

23 regulations and the guidance and the

24 information we collected.

25 (McKesson-Hartle Exhibit 26

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1 What are you doing here? Are

2 you giving the DEA an update of all of the

3 parts of your action plan you're

4 implementing?

5 MS. HENN: Objection to form.

6 THE WITNESS: I can't say if it

7 was awkward or not, but standard -- or

8 a communication and updating them on

9 what we were doing.

10 QUESTIONS BY MR. FARRELL:

11 Q. Go to page 004. Roman numeral

12 number III, "Block orders that exceed

13 thresholds."

14 That's because you have a duty

15 to halt suspicious orders, correct?

16 MS. HENN: Objection to form.

17 Outside the scope.

18 THE WITNESS: That's how we

19 designed our new program, to block.

20 QUESTIONS BY MR. FARRELL:

21 Q. And is that a requirement of

22 federal law?

23 A. It's our interpretation of how

24 we --

25 MS. HENN: Same objection.

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1 Go ahead.
 2 THE WITNESS: Our
 3 interpretation of how -- what we
 4 thought we needed to do with our
 5 program.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Page 5. In April of 2007, you
 8 created your three-tier review process.
 9 Do you see that?
 10 A. Correct. Yep.
 11 Q. That means prior to that, you
 12 didn't have a three-tier review process --
 13 MS. HENN: Objection to form.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. -- under Section 55.
 16 MS. HENN: Objection to form.
 17 THE WITNESS: We did not. We
 18 had a different process.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. September 2007, DEA meeting
 21 triggered new development. This is your new
 22 CSMP, and this is what you're describing to
 23 the DEA, agree?
 24 A. Agree.
 25 Q. Bate Stamp 8. If you're over

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1 Is there a relationship between
 2 the number of pills that get sold and the
 3 number of pills that get diverted?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: It's hard to say,
 6 but you could assume that the -- you
 7 know --
 8 QUESTIONS BY MR. FARRELL:
 9 Q. I don't want you to assume.
 10 A. Yeah.
 11 Q. I want you to use common sense.
 12 A. Yeah. Using common sense and
 13 basic logic, you could assume the more pills
 14 that are out there, the more potential for
 15 diversion there could be.
 16 Q. So if I were to tell you that a
 17 company sold 100 pills and 10 of them got
 18 diverted, and then I come back to you and say
 19 a year later, a thousand pills got sold, what
 20 does common sense and logic tell you as
 21 McKesson Corporation how many pills get
 22 diverted?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: I don't think
 25 it's that easy of a connection to say

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1 your threshold, what happens to your order?
 2 A. It gets blocked.
 3 Q. Why?
 4 A. That's the design of our
 5 system.
 6 Q. For what purpose?
 7 A. To report suspicious orders --
 8 Q. Why is that important?
 9 A. -- block.
 10 To prevent diversion, to play a
 11 role in preventing diversion.
 12 Q. The more pills that get
 13 diverted, what happens?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: You can assume
 16 that there's more abuse.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Do you believe there's a direct
 19 correlation between the more pills that get
 20 sold and the more pills that get diverted?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: Can you rephrase
 23 that question?
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Yes.

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1 that happened. There could be many
 2 different reasons why a thousand
 3 pills -- there may be an increase of a
 4 thousand pills with zero diversion.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. That's true.
 7 Do you expect as McKesson
 8 Corporation to find in general a direct
 9 correlation to volume of pills sold and
 10 volume of pills diverted?
 11 MS. HENN: Objection to form.
 12 Outside the scope.
 13 THE WITNESS: Depends. I don't
 14 know if there's a statistic on how
 15 many pills are diverted. Again,
 16 there's reasons why you may have very
 17 large volumes of pills for legitimate
 18 reasons and there may be zero
 19 diversion.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. That's true. Let me ask it a
 22 different way.
 23 Do you believe it's foreseeable
 24 that the more pills you sell, the more pills
 25 get diverted?

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1 MS. HENN: Objection to form.
 2 THE WITNESS: I would say that
 3 there -- that, you know, the volume
 4 of -- the more pills you have, there
 5 could be, could be more to diversion.
 6 It doesn't mean that there is. Or I
 7 would foresee that just an increase in
 8 volume is going to increase diversion.
 9 There could be.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. The more pills that are
 12 diverted -- let me ask you a different way.
 13 A. Okay.
 14 Q. Does McKesson believe that the
 15 more pills that get diverted, the more pills
 16 get abused?
 17 MS. HENN: Objection to form.
 18 Outside the scope.
 19 THE WITNESS: Sorry, could you
 20 rephrase that one again? Let me --
 21 QUESTIONS BY MR. FARRELL:
 22 Q. As McKesson Corporation, do you
 23 acknowledge that the more pills that get
 24 diverted, the more pills get abused?
 25 MS. HENN: Same objections.

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1 Do you know what an amicus
 2 brief is?
 3 A. I do not. I do not have legal
 4 background.
 5 Q. Okay. McKesson Corporation is
 6 a member of the Healthcare Distributors and
 7 Manufacturers Association, now known as the
 8 Healthcare Distributors Association, agreed?
 9 A. Healthcare Distributors
 10 Management Association?
 11 Q. Management, I'm sorry, yes.
 12 A. Yes.
 13 Q. Okay. And on May 9, 2012,
 14 Cardinal Health had gotten itself into a
 15 little trouble with the DEA, hadn't it?
 16 MS. HENN: Objection to form.
 17 THE WITNESS: I'm aware of that
 18 time frame and...
 19 QUESTIONS BY MR. FARRELL:
 20 Q. They got in trouble with the
 21 DEA, very similar to how McKesson got in
 22 trouble with the DEA in 2008, agreed?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: I haven't
 25 reviewed this document or all the

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1 THE WITNESS: Again, I'd say
 2 what I said previously: It could --
 3 that could be a possibility. It
 4 depends, but...
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Are people diverting pills to
 7 engage in lawful conduct?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: I don't know why
 10 everybody is diverting pills every
 11 single time, but generally, no.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. Right.
 14 So in general, the more pills
 15 that gets diverted, the more abuse and
 16 addiction we find with prescription opium
 17 pills?
 18 A. There's that possibility.
 19 (McKesson-Hartle Exhibit 27
 20 marked for identification.)
 21 QUESTIONS BY MR. FARRELL:
 22 Q. I'm going to have marked what
 23 is Deposition Exhibit 27. The top right-hand
 24 corner is 2012_5_9.
 25 This is an amicus brief.

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1 details, but in spirit, in general.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. So in -- on May 9th of 2012,
 4 HDMA, the Healthcare Distribution Management
 5 Association, wrote a brief to a federal court
 6 here in Washington, DC, in support of
 7 Cardinal Health and against the DEA.
 8 Was McKesson Corporation aware
 9 of this amicus brief?
 10 MS. HENN: Objection to form.
 11 Outside the scope.
 12 MR. FARRELL: It's actually
 13 not. It's actually referenced
 14 directly in the notice.
 15 MS. HENN: I'm not sure that's
 16 the case, but we can disagree about
 17 that.
 18 THE WITNESS: I don't know for
 19 100 percent certain, but I assume so.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Well, I don't want you to
 22 guess. This is relatively important.
 23 Have you seen any
 24 acknowledgement within McKesson Corporation
 25 validating or affirming or reviewing or

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1 participating in this amicus brief?
 2 A. I have not.
 3 Q. Are you aware of McKesson being
 4 involved at all in the amicus briefs?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: I'm not.
 7 (McKesson-Hartle Exhibit 28
 8 marked for identification.)
 9 QUESTIONS BY MR. FARRELL:
 10 Q. I'm going to have marked
 11 Exhibit 28, 2012_05_05.
 12 Are you aware of the Wayback
 13 Machine?
 14 A. Excuse me?
 15 Q. Are you aware of the Wayback
 16 Machine?
 17 A. I am not.
 18 Q. The Wayback Machine is an
 19 Internet service that's free, and what it
 20 does is it's able to go and bring up old
 21 websites based on dates and time.
 22 And it just so happens that the
 23 Wayback Machine captured the HDMA website in
 24 May of 2012. This comes from the HDMA
 25 website, and this is a list of the board of

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1 couple of questions about it.
 2 A. Okay.
 3 Q. If you flip to page 3...
 4 A. Of the brief?
 5 Q. Of the brief.
 6 The very bottom of the page --
 7 MS. HENN: Are you talking
 8 about the Bates numbers or the --
 9 MR. FARRELL: Yeah, the Bates
 10 number.
 11 MS. HENN: Thank you.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. It says, "HDMA's members have
 14 not only statutory and regulatory
 15 responsibilities to detect and prevent
 16 diversion of controlled prescription drugs,
 17 but undertake such efforts as responsible
 18 members of society."
 19 Do you see that?
 20 A. I do.
 21 Q. Do you recognize this as an
 22 acknowledgement that all of the distributors
 23 in the country have a common law duty to the
 24 people of the United States of America to
 25 prevent diversion of controlled substances

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1 directors.
 2 Now, what's an executive
 3 committee on a board of directors?
 4 MS. HENN: Objection to form.
 5 Outside the scope.
 6 THE WITNESS: That's the senior
 7 leaders driving this group.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. And, Mr. McKesson Corporation,
 10 you were on the executive committee of HDMA
 11 of 2012, were you not?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: One of our senior
 15 leaders is.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. You're in the senior leadership
 18 of HDMA, and you signed off on an amicus
 19 brief submitted to a federal court in
 20 Washington, DC, in support of one of your
 21 colleagues and members, Cardinal Health.
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. So I'm going to ask you a

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1 because you're selling controlled substances?
 2 MR. SUDDATH: Objection.
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 THE WITNESS: Okay. Could you
 6 ask me that again?
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Do you recognize this as an
 9 acknowledgement that all of the distributors
 10 in the country have a common law duty to the
 11 American citizens to prevent controlled
 12 substances from being diverted into the
 13 illicit market?
 14 MR. SUDDATH: Objection.
 15 MS. HENN: Objection to form.
 16 Outside the scope.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. I mean, isn't this what we
 19 talked about earlier?
 20 A. I do.
 21 Q. You do, don't you? Yes?
 22 A. Yes.
 23 Q. Because it's not just
 24 statutory, regulatory. You're engaged in
 25 selling opium pills. You owe a duty to the

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1 American people to do your very best to
 2 prevent diversion.
 3 MS. HENN: Objection to form.
 4 Outside the scope.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Agreed?
 7 A. Agreed.
 8 Q. And this is your trade
 9 organization making the same representation
 10 to a federal court in Washington, DC?
 11 MS. HENN: Same objections.
 12 Objection to form. Outside the scope.
 13 THE WITNESS: Yes.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Next sentence: "The public
 16 health dangers associated with the diversion
 17 and abuse of controlled prescription drugs
 18 have been well-recognized over the years by
 19 Congress, DEA, HDMA and its members, and
 20 public health authorities."
 21 Is that all true?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: Yes.
 25

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1 THE WITNESS: Oh, excuse me.
 2 I also remember saying that
 3 certain parts of those regulations
 4 related to what a suspicious order is
 5 is not clear.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Page 7. "The societal costs of
 8 prescription drug abuse are" -- what's it
 9 say?
 10 A. I flipped to the wrong page.
 11 Excuse me.
 12 "Huge."
 13 Q. And if a distributor engages in
 14 unlawful conduct, should the distributor be
 15 held accountable for such societal costs?
 16 MS. HENN: Objection to form.
 17 Outside the scope.
 18 THE WITNESS: Can you repeat
 19 that, please?
 20 QUESTIONS BY MR. FARRELL:
 21 Q. If a wholesale distributor
 22 engages in unlawful conduct, should it be
 23 held accountable for the societal costs of
 24 prescription drug abuse?
 25 MR. SUDDATH: Objection.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. The next sentence. This is the
 3 part that I'd like to talk to you about, the
 4 highlighted part. "The agency," meaning DEA,
 5 "has failed to provide meaningful guidance to
 6 assist the regulated industry in complying
 7 with the DEA's interpretation of its
 8 implementing regulations. HDMA respectfully
 9 submits that despite the agency's oft-recited
 10 refrain that the regulations are clear, the
 11 regulated industry does not know the rules of
 12 the road because DEA has not adequately
 13 explained them."
 14 McKesson has said the opposite
 15 publicly and to its own people, agreed?
 16 MS. HENN: Object to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. Remember the slide that said
 19 clear? Remember your testimony about the
 20 letters and the settlement agreement? You
 21 said a few minutes ago it was clear.
 22 A. I do remember all of that. I
 23 also --
 24 MS. HENN: Object to form.
 25 Go ahead.

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1 MS. HENN: Same objections.
 2 THE WITNESS: I believe
 3 distributors have a responsibility in
 4 preventing diversion.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. So should they be held
 7 accountable for the societal costs that are
 8 documented in this pleading and referenced as
 9 huge?
 10 A. I think it depends.
 11 MS. HENN: Objection to form.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. Depends on what?
 14 MS. HENN: Same objection.
 15 Go ahead.
 16 THE WITNESS: It depends on the
 17 facts and circumstances and, you know,
 18 the information about the specific
 19 situation.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. If a distributor repeatedly
 22 fails to report suspicious orders, do you
 23 believe it should be held accountable for the
 24 societal costs of prescription drug abuse?
 25 MR. SUDDATH: Objection.

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1 MS. HENN: Objection to form.
 2 THE WITNESS: And I believe it
 3 depends.
 4 QUESTIONS BY MR. FARRELL:
 5 Q. On?
 6 A. The facts and circumstances.
 7 Q. How about the facts and
 8 circumstances which led to McKesson paying
 9 \$150 million fine?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: Again, I think it
 12 depends.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. Do you think McKesson is partly
 15 responsible for the societal costs of
 16 prescription drug abuse in America?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: Could you ask
 19 that one again, please?
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Do you think McKesson is partly
 22 responsible for the societal costs of
 23 prescription drug abuse in America?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: Again, there's a

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1 have the opportunity to look in the camera
 2 and tell the jury whether or not you accept
 3 partial responsibility for the societal costs
 4 of prescription drug abuse in America.
 5 MS. HENN: Objection to form.
 6 Outside the scope.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. I'd ask you to answer yes or
 9 no.
 10 MS. HENN: Same objections.
 11 THE WITNESS: I'm not sure how
 12 to answer that -- that question
 13 specifically.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Well, you can say yes or --
 16 A. I understand that.
 17 Q. -- you can say no.
 18 A. I understand that.
 19 MS. HENN: Objection to form.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. If I asked you the same
 22 question in your personal capacity, would
 23 that help you answer the question better?
 24 MS. HENN: Same objection.
 25 Objection to form.

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1 lot of people involved in -- it's a
 2 very complicated and multi-faceted
 3 issue, so...
 4 QUESTIONS BY MR. FARRELL:
 5 Q. We'll get to the other people
 6 in a second.
 7 MS. HENN: Are you done with
 8 your answer?
 9 THE WITNESS: I am done.
 10 MS. HENN: Okay.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. We'll get to the others in a
 13 second. I want to talk about McKesson first.
 14 This is your opportunity to
 15 accept partial responsibility for the
 16 societal costs of prescription drug abuse in
 17 America; yes or no?
 18 MS. HENN: Objection to form.
 19 Also outside the scope.
 20 THE WITNESS: So again, it
 21 depends on -- it depends.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. You're McKesson Corporation.
 24 A. Right.
 25 Q. You're sitting here today. You

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1 THE WITNESS: Again, it
 2 depends -- I would say it doesn't
 3 change my answer. It depends on the
 4 role that they played.
 5 QUESTIONS BY MR. FARRELL:
 6 **Q. Well, back to McKesson**
 7 **Corporation, which is you sitting in the**
 8 **chair today. Knowing what you know as the**
 9 **30(b)(6) representative, the corporate**
 10 **designee, knowing about your past conduct,**
 11 **knowing about the past interactions with the**
 12 **DEA, I'm going to ask you again: Does**
 13 **McKesson Corporation accept partial**
 14 **responsibility for the societal costs of**
 15 **prescription drug abuse in America?**
 16 MS. HENN: Objection to form.
 17 **THE WITNESS: Again, you know,**
 18 **I -- we're part of the closed system,**
 19 **so we're responsible for preventing**
 20 **diversion.**
 21 QUESTIONS BY MR. FARRELL:
 22 **Q. So the answer is?**
 23 MS. HENN: Objection to form.
 24 **THE WITNESS: Again, I think**
 25 **we're responsible for something. I**

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1 don't know what -- how you define all
 2 societal costs and -- I still believe
 3 it depends on different circumstances.
 4 **QUESTIONS BY MR. FARRELL:**
 5 Q. Sir, we're not going to parse
 6 out percentages.
 7 A. Yeah.
 8 Q. Let's just talk globally for
 9 McKesson Corporation. So I don't want to put
 10 words in your mouth because it's got to come
 11 out of your mouth. So the answer is yes or
 12 no.
 13 MS. HENN: Objection to form.
 14 **THE WITNESS: I would say yes,**
 15 **partially.**
 16 **QUESTIONS BY MR. FARRELL:**
 17 Q. How about Purdue Pharma? Does
 18 McKesson Corporation take the position that
 19 Purdue Pharma is partially responsible for
 20 the societal costs of prescription drug abuse
 21 in America?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 **THE WITNESS: I'm not going to**
 25 **answer for other companies. I'm --**

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1 A. I have not.
 2 Q. Do you know who Gary Boggs is?
 3 A. I do know Gary.
 4 Q. I'll represent to you that on
 5 the metadata that was provided by the --
 6 McKesson, indicates that this presentation is
 7 dated in late 2012 -- wait, late 2013, I
 8 think, probably before Gary Boggs came on to
 9 McKesson. We'll ask him when we depose him.
 10 But anyway, this is a McKesson
 11 spreadsheet from Gary Boggs. Gary Boggs is
 12 former DEA.
 13 A. PowerPoint, not spreadsheet.
 14 Q. Yeah, I'm sorry.
 15 A. Okay.
 16 Q. He's former DEA, correct?
 17 A. Correct.
 18 Q. He was the number 2 man on Joe
 19 Rannazzisi, yes?
 20 A. Yes.
 21 Q. And as we'll see later, he was
 22 actually in the room for one of the
 23 presentations when DEA was negotiating with
 24 McKesson on the 2008 settlement.
 25 Is that your memory as a

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1 it's like I answered my question:
 2 Those involved in this space,
 3 depending on the facts and
 4 circumstances, may be. So, yes.
 5 **QUESTIONS BY MR. FARRELL:**
 6 Q. Flip to page 8, the last
 7 paragraph. Your trade organization is saying
 8 that the "DEA's goal, the prevention of
 9 diversion of controlled prescription drugs,
 10 is, of course, a public good."
 11 Does McKesson validate,
 12 acknowledge and affirm that statement?
 13 MS. HENN: Objection to form.
 14 **THE WITNESS: Absolutely. The**
 15 **prevention of the diversion of**
 16 **controlled substances is good for the**
 17 **public.**
 18 (McKesson-Hartle Exhibit 29
 19 marked for identification.)
 20 **QUESTIONS BY MR. FARRELL:**
 21 Q. Next exhibit I'm going to have
 22 marked is Exhibit 29. It's Exhibit
 23 2013_09_13. It's Bates stamp
 24 MCK-AGMS-006000880.
 25 Have you seen this document?

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1 corporate entity?
 2 MS. HENN: Objection to form.
 3 **THE WITNESS: I wasn't aware**
 4 **that he was specifically in the room,**
 5 **but...**
 6 **QUESTIONS BY MR. FARRELL:**
 7 Q. The title of this PowerPoint
 8 slide is what?
 9 A. Oh, "State of prescription drug
 10 abuse."
 11 Q. And on the second page, talks
 12 about the impact of effective compliance.
 13 And it uses lots of America-related stuff,
 14 eagles and flags and such.
 15 Do you see that?
 16 A. I do see that.
 17 Q. "Protecting America from
 18 Prescription Drug Diversion."
 19 The next page is a history of
 20 understanding the problem, and on page 4 it
 21 talks about a collision course.
 22 And presumably this is two
 23 planes colliding in the air, and that's
 24 OxyContin and Percocet.
 25 Do you see that?

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1 MS. HENN: Objection to form.
2 THE WITNESS: I see that.
 3 QUESTIONS BY MR. FARRELL:
4 Q. "In the late 1990s, doctors
5 aggressively prescribing painkillers - a
6 radical change in health care behavior."
7 And that radical change in
8 health care behavior did what to the number
9 of prescriptions?
 10 MS. HENN: Objection to form.
11 THE WITNESS: Increased them.
 12 QUESTIONS BY MR. FARRELL:
13 Q. Which resulted in an increase
14 or decrease in the number of pills McKesson
15 sold?
16 A. I don't know exact numbers, but
17 it increased.
 18 Q. And then the last part,
 19 "Manufacturers fueled the use of prescription
 20 painkillers."
 21 This is coming from your new
 22 head of regulatory affairs at McKesson,
 23 agreed?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: Can you say that

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1 played a role.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. Does McKesson believe the
 4 manufacturers fueled the use of prescription
 5 painkillers?
 6 MS. HENN: Objection to form.
 7 Outside the scope.
 8 THE WITNESS: I think they
 9 played a role. I think there's many
 10 reasons -- many things that fueled the
 11 epidemic.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. So would you rather just punt
 14 on the question?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: That's what I'm
 17 going to share. That's my answer.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So yes or no, does McKesson
 20 Corporation believe manufacturers fueled the
 21 use of prescription painkillers?
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: Like I said,
 25 my -- they're part of the system.

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1 again?
 2 QUESTIONS BY MR. FARRELL:
 3 Q. Yeah.
 4 A. He's not -- he wasn't the head
 5 of regulatory affairs.
 6 Q. Then, but he is now?
 7 A. He's one of the leaders on the
 8 regulatory affairs team.
 9 Q. Okay. And this is his
 10 statement that "Manufacturers fueled the use
 11 of prescription painkillers."
 12 Is that McKesson's position?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: I don't know if
 15 that's his own specific words or he
 16 got that from a previous deck from
 17 DEA. I'm not sure.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. We'll have to ask him.
 20 But I'm asking McKesson whether
 21 or not it shares this view.
 22 MS. HENN: Objection to form.
 23 Outside the scope.
 24 THE WITNESS: Manufacturers are
 25 part of the closed system, like -- and

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1 They played a role.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. So the answer is?
 4 A. They played a role. I wouldn't
 5 say -- I wouldn't characterize it as fueled.
 6 I don't know that I would use that language.
 7 Q. Fair enough.
 8 The next page, 5 and 6,
 9 document Purdue Pharma's \$635 million fine,
 10 Cephalon's \$425 million fine.
11 Going to page 7, it's comparing
12 the US rates of opioid overdose deaths, sales
13 and treatment admissions.
14 Do you see that?
15 A. I see that.
16 Q. What is the correlation between
17 opioid sales and opioid deaths? Are they
18 related or unrelated?
 19 MS. HENN: Objection to form.
20 THE WITNESS: They're both
21 increasing at a similar rate.
 22 QUESTIONS BY MR. FARRELL:
23 Q. So that means they're related
24 or unrelated?
 25 MS. HENN: Objection to form.

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1 **THE WITNESS: They appear to be**
 2 **related.**
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Does McKesson believe that
 5 opioid sales are related to opioid deaths?
 6 MS. HENN: Objection to form.
 7 Outside the scope.
 8 THE WITNESS: Can you ask that
 9 one more time, please?
 10 QUESTIONS BY MR. FARRELL:
 11 **Q. Does McKesson believe that**
 12 **opioid sales are related to opioid deaths?**
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 **THE WITNESS: The volume of**
 16 **opioids in the market and diversion is**
 17 **related to opioid deaths, certainly.**
 18 QUESTIONS BY MR. FARRELL:
 19 **Q. Page 8, the Controlled**
 20 **Substances Act, the very last provision says,**
 21 **"Creates checks and balances between**
 22 **registrants to protect the public health and**
 23 **safety."**
 24 **Again, this is again a**
 25 **reaffirmation from Gary Boggs, who is now one**

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1 MS. HENN: Objection to form.
 2 MR. FARRELL: You're right.
 3 That's not necessarily a picture of
 4 McKesson.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. You would agree with me that if
 7 a McKesson sales agent came upon a pain
 8 clinic and saw this, that would be a red
 9 flag?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: It would.
 12 QUESTIONS BY MR. FARRELL:
 13 **Q. Page 17, historical comparison.**
 14 **He's comparing the opioid crisis to the BP**
 15 **oil spill where 11 people were killed and BP**
 16 **paid 40 billion, plus 16 billion to the Clean**
 17 **Water Act.**
 18 **Have more or less than 11**
 19 **people been killed by the opioid crisis?**
 20 **A. Clearly more.**
 21 **Q. Have more people died today**
 22 **than 11 people?**
 23 MS. HENN: Objection to form.
 24 **THE WITNESS: Based on the**
 25 **statistics, yes.**

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1 **of your senior regulatory affairs management,**
 2 **acknowledging that the registrants and the**
 3 **DEA have a duty to protect the public health**
 4 **and safety, agreed?**
 5 **A. Agreed.**
 6 **Q. Page 13. It says, "What can**
 7 **happen when these checks and balances**
 8 **collapse?"**
 9 **What do you believe this is a**
 10 **picture of?**
 11 MS. HENN: Objection to form.
 12 **THE WITNESS: It's a building**
 13 **falling down.**
 14 QUESTIONS BY MR. FARRELL:
 15 **Q. A disaster?**
 16 **A. It's a building that's falling**
 17 **down. Why it fell down could be a disaster.**
 18 **Q. What do you infer from**
 19 **Mr. Boggs' implication?**
 20 **A. That things can go wrong,**
 21 **something can happen.**
 22 Q. Page 16, pictures of pain
 23 clinics and people waiting in line to
 24 purchase pills sold by McKesson to
 25 pharmacies.

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1 QUESTIONS BY MR. FARRELL:
 2 **Q. Page 24. Does McKesson**
 3 **acknowledge and agree there is a national**
 4 **epidemic of prescription pill addiction,**
 5 **abuse, morbidity and mortality?**
 6 MS. HENN: Objection to form.
 7 **THE WITNESS: Absolutely.**
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Does McKesson acknowledge the
 10 economic impact of this national epidemic in
 11 America is greater than \$57 billion per year?
 12 MS. HENN: Objection to form.
 13 Outside the scope.
 14 THE WITNESS: I don't know
 15 where that -- the -- how the 57
 16 billion was derived, but there's
 17 clearly an -- or an economic impact to
 18 the country.
 19 QUESTIONS BY MR. FARRELL:
 20 **Q. Page 37, "distributors have**
 21 **great power." The last provision.**
 22 **You, McKesson Corporation,**
 23 **control the supply to downstream customers.**
 24 **Does McKesson acknowledge that duty?**
 25 MS. HENN: Objection to form.

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1 THE WITNESS: We control what

2 we sell.

3 QUESTIONS BY MR. FARRELL:

4 Q. So yes?

5 A. Yes.

6 Q. Page 38. And Mr. -- I take

7 exception with Mr. Boggs here. He attributes

8 this to some guy named Voltaire, but actually

9 this is Spiderman. "With great power comes

10 great responsibility."

11 Does McKesson acknowledge that?

12 You don't have to answer that

13 question.

14 Page 41, "Detecting Suspicious

15 Orders." Most importantly, Mr. Boggs is

16 telling McKesson that you cannot ignore what.

17 A. Warning signs.

18 Q. Page 46, "Without sustained

19 sources of supply, major diversion schemes

20 wither away."

21 Who are the major sources of

22 supply?

23 MS. HENN: Objection to form.

24 THE WITNESS: Those in the

25 closed system of distribution:

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1 MS. HENN: Objection to form.

2 THE WITNESS: There's

3 allegations.

4 QUESTIONS BY MR. FARRELL:

5 Q. Same ones as before, agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Related to the

8 regulations.

9 QUESTIONS BY MR. FARRELL:

10 Q. Same as the 2008?

11 MS. HENN: Objection to form.

12 THE WITNESS: Around suspicious

13 orders.

14 (McKesson-Hartle Exhibit 31

15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. Exhibit 31, dated November 6,

18 2013. It's 2013_11_6, MCKMDL00409048.

19 It's again from the United

20 States Attorney in the Northern District of

21 West Virginia. It's talking about further

22 explanations.

23 You would agree with me this is

24 the same conduct that McKesson got in trouble

25 for in 2008?

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1 manufacturers, distributors. There's

2 also sources, illicit sources, outside

3 of the closed network.

4 QUESTIONS BY MR. FARRELL:

5 Q. They all originate within the

6 closed network, do they not?

7 MS. HENN: Objection to form.

8 THE WITNESS: What do you mean

9 by "all originate"?

10 QUESTIONS BY MR. FARRELL:

11 Q. Well, Bob, in his trailer in

12 southern West Virginia, isn't making

13 OxyContin pills.

14 A. No, I'm saying there's other --

15 I understand your point. They come

16 ultimately from the manufacturer,

17 distributor, pharmacy.

18 (McKesson-Hartle Exhibit 30

19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Exhibit 30, 2013_10_23, Bates

22 stamp MCKMDL00409046. This is October 23,

23 2013.

24 McKesson is in trouble again

25 with the DEA, agreed?

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1 MS. HENN: Objection to form.

2 THE WITNESS: Yeah, it has to

3 do with suspicious orders, which is

4 similar.

5 QUESTIONS BY MR. FARRELL:

6 Q. And it's Covington & Burlington

7 at a place called 1201 Pennsylvania Avenue,

8 Northwest.

9 Do you know where that is?

10 Isn't that here?

11 MS. HENN: Old office.

12 MR. FARRELL: The old office.

13 All right.

14 THE WITNESS: In town.

15 QUESTIONS BY MR. FARRELL:

16 Q. But again, this is the same

17 thing.

18 Do you know Bill Ihlenfeld?

19 A. I do not.

20 Q. Yeah, he was the US Attorney

21 for the Northern District of West Virginia

22 and a classmate of mine. He's calling on

23 McKesson, and he's essentially telling

24 McKesson, "Hey, you're not doing your job

25 again."

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1 MS. HENN: Objection to form.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. "And you're dumping pills into
 4 my state."
 5 MS. HENN: Same objection.
 6 (McKesson-Hartle Exhibit 32
 7 marked for identification.)
 8 QUESTIONS BY MR. FARRELL:
 9 **Q. Exhibit 32, 2014_1_XX,**
 10 **MCKMDL00409050. In fact, they put a whole**
 11 **presentation together.**
 12 **Have you seen this**
 13 **presentation?**
 14 **A. I have seen this one.**
 15 **Q. I'm not going to go through**
 16 **this because we'll go through with it a lot**
 17 **more tomorrow.**
 18 **In essence, what I'm trying to**
 19 **accomplish here is that you understand that**
 20 **the United States District Attorney for the**
 21 **Northern District of Ohio, and then it turns**
 22 **out other ones, including Colorado, are**
 23 **basically telling McKesson: You have a**
 24 **systemic failure to monitor, detect and**
 25 **report suspicious orders.**

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1 THE WITNESS: I haven't
 2 finished reading this, but I know
 3 there was discussions with DEA about
 4 both.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. We agree that you saw from
 7 Section 55 on McKesson has said, "If you
 8 ain't going to turn in suspicious orders, you
 9 need to have it in writing."
 10 Neither you nor Mr. Boggs has
 11 ever been able to find such a piece of
 12 writing.
 13 MS. HENN: Objection to form.
 14 (McKesson-Hartle Exhibit 34
 15 marked for identification.)
 16 QUESTIONS BY MR. FARRELL:
 17 Q. In fact, Exhibit 34 is the
 18 response to the presentation, March 20, 2014.
 19 It's 2014_03_20, MCKMDL00409174, from my good
 20 friend Bill Ihlenfeld's office, which
 21 basically says "bull."
 22 MS. HENN: Counsel, just to
 23 clarify, I think Exhibit 33 you
 24 might -- you have two documents in
 25 here.

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1 **Is that what they're alleging?**
 2 MS. HENN: Objection to form.
 3 **THE WITNESS: Yes, that's what**
 4 **they're alleging.**
 5 (McKesson-Hartle Exhibit 33
 6 marked for identification.)
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Exhibit 33, this is your
 9 response, 2014_03_12, Bates-stamped
 10 MCKMDL00409116.
 11 This is you responding, saying,
 12 "Nuh-uh, no, we didn't."
 13 Does that about wrap it up?
 14 MS. HENN: Objection to form.
 15 QUESTIONS BY MR. FARRELL:
 16 Q. You've seen this document
 17 before?
 18 A. I have not, so I'm going to go
 19 through it.
 20 Q. Okay. My summary of this is
 21 that McKesson's response is, "We don't have
 22 to report all suspicious orders. We only
 23 have to report suspicious customers."
 24 Does that sound familiar?
 25 MS. HENN: Objection to form.

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1 MR. FARRELL: Maybe. It may
 2 have included it.
 3 MS. HENN: Ah, is that why?
 4 MR. FARRELL: Maybe.
 5 MS. HENN: Okay. That's fine.
 6 Just wanted to make sure you knew.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. And at this point in time, it
 9 appears that McKesson had hired AGI --
 10 A. Can I read this one? I have
 11 not read this one before.
 12 Q. Okay. I'm not going to drill
 13 you on that letter. It's got --
 14 A. No, I'm about done. I just
 15 wanted to read the summary here, too.
 16 Okay. Thank you.
 17 **Q. Now, skipping through all of**
 18 **the other correspondence because we'll get**
 19 **into that more tomorrow, more recently, as a**
 20 **result of all of this, even though McKesson**
 21 **is denying liability, you understand that**
 22 **McKesson did enter into another settlement**
 23 **agreement?**
 24 **A. I understand that.**
 25 (McKesson-Hartle Exhibits 35,

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1 36 and 37 marked for identification.)
 2 QUESTIONS BY MR. FARRELL:
 3 **Q. 2017_01_05A, 35, Exhibit 35,**
 4 **MCKMDL00355322, the settlement agreement and**
 5 **release.**
 6 **Exhibit 37, 2017_01_5B,**
 7 **MCKMDL00355477.**
 8 **MS. HENN: Did you skip 36?**
 9 **QUESTIONS BY MR. FARRELL:**
 10 **Q. I didn't.**
 11 **36 will be 2017_01_05B, the**
 12 **compliance addendum.**
 13 **MS. HENN: 37.**
 14 **MR. FARRELL: Oh, okay, I'm**
 15 **sorry. But it's okay because we'll**
 16 **just put 36 as the administrative**
 17 **memorandum, which is 2017_01_5C,**
 18 **MCKMDL0355513.**
 19 **MS. HENN: And, Counsel, we've**
 20 **been going about an hour, so if we**
 21 **could have a break at a good stopping**
 22 **point. It doesn't have to be this**
 23 **second, but if there's one very soon,**
 24 **that would be great.**
 25 **MR. FARRELL: Yeah, very soon.**

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1 **core of it.**
 2 QUESTIONS BY MR. FARRELL:
 3 **Q. So let's just be fair. There**
 4 **were certain distribution facilities that**
 5 **utterly failed to fulfill their obligations**
 6 **under federal law to monitor, detect, halt**
 7 **and report suspicious orders, which resulted**
 8 **in McKesson paying the largest fine in the**
 9 **history of the DEA; true or not true?**
 10 **MS. HENN: Objection to form.**
 11 **THE WITNESS: Could you**
 12 **simplify that question a little bit?**
 13 **QUESTIONS BY MR. FARRELL:**
 14 **Q. Yeah.**
 15 **McKesson wasn't following the**
 16 **law and got fined \$150 million?**
 17 **MS. HENN: Objection to form.**
 18 **THE WITNESS: We acknowledged**
 19 **that certain orders did not get**
 20 **flagged in our system.**
 21 **QUESTIONS BY MR. FARRELL:**
 22 **Q. Thousands.**
 23 **MS. HENN: Objection to form.**
 24 **QUESTIONS BY MR. FARRELL:**
 25 **Q. Thousands of orders?**

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1 **MS. HENN: Great.**
 2 **QUESTIONS BY MR. FARRELL:**
 3 **Q. Just to acknowledge, McKesson's**
 4 **still is denying liability, and this time the**
 5 **cost has become more prohibitive with the**
 6 **fine, 150 million.**
 7 **MS. HENN: Objection to form.**
 8 **QUESTIONS BY MR. FARRELL:**
 9 **Q. Agreed?**
 10 **A. Agreed. We settled with the**
 11 **settlement agreement, agreed.**
 12 **Q. McKesson's distribution**
 13 **facilities were systematically failing to**
 14 **report suspicious orders and resulted in a**
 15 **\$150 million fine assessed by the DEA and**
 16 **paid by McKesson Corporation; true or not**
 17 **true?**
 18 **MS. HENN: Objection to form.**
 19 **THE WITNESS: We did pay that**
 20 **fine, \$150 million.**
 21 **QUESTIONS BY MR. FARRELL:**
 22 **Q. Because you were systematically**
 23 **not reporting suspicious orders?**
 24 **MS. HENN: Same objection.**
 25 **THE WITNESS: That was at the**

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1 **A. Orders.**
 2 **Q. Like some facilities reported**
 3 **none.**
 4 **MS. HENN: Objection to form.**
 5 **QUESTIONS BY MR. FARRELL:**
 6 **Q. Yes?**
 7 **A. Systematically none.**
 8 **Q. Systematically none.**
 9 **And it wasn't just an isolated**
 10 **distribution facility. It was several**
 11 **different facilities across the spectrum at**
 12 **McKesson had utterly failed to comply with**
 13 **federal regulations to prevent diversion of**
 14 **controlled substances?**
 15 **MS. HENN: Objection to form.**
 16 **THE WITNESS: We believed we**
 17 **were in good faith working with DEA as**
 18 **part of the 2008 agreement to report**
 19 **customers and report orders in a**
 20 **different way that was mutually agreed**
 21 **upon. So --**
 22 **QUESTIONS BY MR. FARRELL:**
 23 **Q. Yeah, I'm not asking --**
 24 **A. -- I would say --**
 25 **MR. FARRELL: You're right.**

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1 You're right.
 2 THE WITNESS: I know you say
 3 zero, but I -- you know, there are
 4 situations and scenarios where we
 5 reported based on what we agreed to
 6 with the DEA, based on that settlement
 7 agreement.
 8 So I understand systematically
 9 they weren't being reported, but they
 10 were being reported in other ways.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Sitting here today does
 13 McKesson Corporation acknowledge that it
 14 utterly failed in its obligations to prevent
 15 diversion of opium pills into the American
 16 illicit market?
 17 MS. HENN: Objection to form.
 18 THE WITNESS: No, I don't
 19 believe we utterly failed. We, again,
 20 in good faith over the years have
 21 worked with DEA, taken guidance,
 22 developed programs, enhanced programs,
 23 evolved them over the course of time.
 24 So I wouldn't characterize it
 25 as utterly failing.

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1 as partially true?
 2 MS. HENN: Objection to form.
 3 THE WITNESS: Again, we --
 4 partially, in the second agreement, we
 5 did acknowledge that, you know, we
 6 didn't identify all the suspicious
 7 orders that we could have.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. In fact, in some distribution
 10 facilities you didn't identify any?
 11 MS. HENN: Objection to form.
 12 QUESTIONS BY MR. FARRELL:
 13 Q. This isn't like we missed a
 14 needle in a haystack. This is we missed the
 15 hay.
 16 MS. HENN: Objection to form.
 17 THE WITNESS: So the thing I
 18 would just share is that, again, all
 19 of those orders were blocked and not
 20 shipped. And we may not have
 21 systematically, as I mentioned
 22 earlier, reported, but --
 23 MR. FARRELL: Hold on.
 24 MS. HENN: Wait, he's not done
 25 with his answer.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Well, when you report zero
 3 suspicious orders over years at the same time
 4 selling tens of millions of opium pills into
 5 a community, you're not meeting your
 6 obligations under federal law, agreed?
 7 MS. HENN: Objection to form.
 8 THE WITNESS: Again, there's
 9 certain times in which we acknowledged
 10 that we did not report orders. That
 11 does not mean that we did not conduct
 12 diligence, that we did not evolve our
 13 program to help prevent.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. And I understand the desire to
 16 want to say in good faith you did your best.
 17 What I'm asking for is a very simple
 18 acknowledgement that McKesson was not
 19 following the law and got fined for it on two
 20 occasions.
 21 MS. HENN: Objection to form.
 22 THE WITNESS: Those were the
 23 allegations.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Do you accept those allegations

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1 THE WITNESS: I'm just
 2 reiterating the point I made earlier
 3 about the 2008 agreement, mutually
 4 discussing with DEA the fact that we
 5 were focusing on customers and would
 6 report suspicious orders in a mutually
 7 format -- a mutually-agreed-upon
 8 format.
 9 So you say zero, but it may not
 10 always be zero.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. Just to be fair with you, we're
 13 going to take a break.
 14 A. All right.
 15 Q. I have the transactional data
 16 in Cuyahoga and Summit County from McKesson
 17 sales of opium pills. I also have the
 18 suspicious order reports.
 19 So let's be clear: McKesson
 20 didn't get in trouble for blocking orders and
 21 not reporting them. McKesson paid a record
 22 fine for shipping suspicious orders and not
 23 reporting them.
 24 MS. HENN: Objection to form.
 25 THE WITNESS: Say that again.

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1 I want to be very clear what I heard.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. Me, too.
 4 A. Yeah.
 5 Q. You're telling me that
 6 McKesson's conduct that it admitted to,
 7 McKesson's position is that it blocked
 8 suspicious orders and then just simply didn't
 9 report them in the right way. That's your
 10 position?
 11 A. We systematically -- based on
 12 the design of our system, orders were
 13 blocked.
 14 Q. You believe that McKesson was
 15 blocking all the suspicious orders and paid
 16 \$150 million because of the manner in which
 17 it reported?
 18 A. Earlier I said we did
 19 acknowledge that some orders, not all, we
 20 didn't block.
 21 Q. Okay. So let's get back --
 22 A. We didn't -- let me rephrase
 23 that. We acknowledge that our system may not
 24 have detected orders that could be deemed as
 25 suspicious.

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1 without reporting it, is that unlawful?
 2 MS. HENN: Objection to form.
 3 THE WITNESS: I think it
 4 depends.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. On?
 7 A. There could be a technical
 8 glitch --
 9 Q. Okay.
 10 A. -- or some computer error. I
 11 mean --
 12 Q. I'm talking about hundreds and
 13 hundreds and hundreds of orders that are
 14 red-flagged by McKesson and shipped anyway
 15 without reporting a suspicious order.
 16 The US Attorney for the
 17 Northern District of West Virginia doesn't
 18 say this was a technical glitch. He says it
 19 was a systematic failure by your company to
 20 abide by West Virginia law -- or federal law.
 21 You paid a record fine, and
 22 you're disavowing the underlying conduct
 23 today?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: I'm just trying

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1 Q. And that the orders that your
 2 system did detect as suspicious, you still
 3 shipped anyway without reporting them?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: No.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. You believe that's not true?
 8 A. Based on my understanding of
 9 our systems and how things work in -- when
 10 they hit a threshold and they're blocked,
 11 those do not get shipped.
 12 Q. All right. So fair --
 13 A. That's how we define those
 14 suspicious orders.
 15 Q. Fair enough.
 16 Let me ask you this: If your
 17 system detects a suspicious order and you
 18 ship it anyway and you don't report it, is
 19 that unlawful?
 20 MS. HENN: Objection to form.
 21 THE WITNESS: Please say that
 22 again.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. If your system detects a
 25 suspicious order and you ship it anyway

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1 to communicate that our system that
 2 was designed to detect suspicious
 3 orders using the concept of thresholds
 4 blocked all of the -- blocked those
 5 suspicious orders.
 6 We recognize that and
 7 acknowledge that it may not have
 8 picked up on all of the suspicious
 9 orders and...
 10 MR. FARRELL: One more and
 11 we'll take a quick break.
 12 MS. HENN: If it's okay, I'd
 13 like to take it now. It's been now an
 14 hour and 15 minutes. It's pretty
 15 tiring to be a witness. So if we
 16 could just take a five-minute break,
 17 that would be great.
 18 MR. FARRELL: Okay.
 19 MS. HENN: Thank you.
 20 VIDEOGRAPHER: The time is 4:29
 21 p.m. We're going off the record.
 22 (Off the record at 4:29 p.m.)
 23 VIDEOGRAPHER: The time is
 24 4:45 p.m. We're back on the record.
 25 MR. FARRELL: Thank you.

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1 So we have about an hour left;
 2 we've been going about -- almost six
 3 hours. So by agreement we've kept the
 4 deposition days to seven hours long,
 5 and I'll honor that.
 6 MS. HENN: More than by
 7 agreement. It's also ordered by the
 8 judge.
 9 MR. FARRELL: No question.
 10 MS. HENN: Just a slight
 11 clarification.
 12 MR. FARRELL: No question.
 13 Seven hours of answering questions is
 14 enough for anybody.
 15 MS. HENN: It is.
 16 MR. FARRELL: That being said,
 17 I know there's a burden on travel and
 18 arrangements; we have a tight
 19 schedule. So what I'm going to do is
 20 I'm going to finish up some topics,
 21 and I'm going to state for the record
 22 that I have not been able to get
 23 through all of the designated topics
 24 today.
 25 That being said, there are some

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1 Obviously, it's going to be
 2 subject to the objection of your
 3 lawyers, and I just wanted to place
 4 that on the record.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Jumping in real quick, I'm not
 7 going to spend a whole lot of time on this; I
 8 have a very specific question.
 9 Before we get into the
 10 document, there's a reference in here about
 11 heroin, and I just wanted to see if I could
 12 cut to the chase with you.
 13 A. Okay.
 14 Q. As the McKesson corporate
 15 representative, do you acknowledge that abuse
 16 of prescription opium pills is a gateway to
 17 the initiation of heroin?
 18 MS. HENN: Objection to form.
 19 Outside the scope.
 20 THE WITNESS: Based on
 21 everything that I've read and in the
 22 media and statistics and discussion, I
 23 would agree -- agree to that.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. If you abuse prescription

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1 additional topics that you were not
 2 designated for. There's essentially
 3 two notices.
 4 So what we're -- what I'm going
 5 to do is recommend that I finish up
 6 the topics that I want to get to, and
 7 then tomorrow is your fact deposition.
 8 And what we'll do is work out with
 9 counsel if there are any of these
 10 questions that can be answered in
 11 writing to avoid you having to come
 12 back and testify on things that can be
 13 answered.
 14 And then in addition, there are
 15 records and there are -- there is
 16 transactional data historically and
 17 suspicious order report historically
 18 that have not been disclosed yet
 19 because of our tight schedules that
 20 I'll -- I will be going to ask --
 21 eventually to ask for some additional
 22 time from you to finish the stuff we
 23 didn't get to finish and to ask
 24 questions about documents that have
 25 not been disclosed yet.

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1 opiates, the CDC says that you're 40 times
 2 more likely to initiate heroin use.
 3 Does McKesson acknowledge
 4 that -- that prescription opiate pill abuse
 5 is a driving factor in the heroin epidemic
 6 we're also experiencing?
 7 MS. HENN: Objection to form.
 8 Outside the scope.
 9 THE WITNESS: Yeah, it's a
 10 factor.
 11 QUESTIONS BY MR. FARRELL:
 12 Q. That was easy.
 13 A. Yeah.
 14 Q. All right. Back to this amicus
 15 business.
 16 (McKesson-Hartle Exhibit 38
 17 marked for identification.)
 18 QUESTIONS BY MR. FARRELL:
 19 Q. I'm going to mark as
 20 Exhibit 38, it's 2016_04_04. This is another
 21 amicus brief. This one is Masters
 22 Pharmaceutical.
 23 Does McKesson acknowledge that
 24 in 2016 when this amicus brief was submitted
 25 that it was still on the executive committee

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1 of HDMA?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: I can't speak to

5 that. If I saw a list of who was on

6 the executive committee...

7 (McKesson-Hartle Exhibit 39

8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. Fair enough. Exhibit 39,

11 2016_04_05, the Wayback Machine.

12 So looking at the Exhibit 39,

13 can you acknowledge that McKesson was on the

14 executive board of HDMA --

15 A. Yes.

16 Q. -- at the time that this amicus

17 brief was submitted?

18 A. Yes.

19 Q. Have you had a chance to review

20 the amicus brief?

21 A. I had a chance to look at some

22 of the highlighted sections.

23 Q. So let's go to 2016_04_04,

24 page 5.

25 A. Page 5.

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1 QUESTIONS BY MR. FARRELL:

2 Q. You're stumbling toward it.

3 A. Yeah.

4 Q. Let's go to page 6, a little

5 more direct. The second highlighted

6 provision: "As the final order in this case

7 underscores, however, DEA now appears to have

8 changed its position to require that

9 distributors not only report suspicious

10 orders but investigate and halt suspicious

11 orders."

12 This is a 2016 document by your

13 trade organization, of which McKesson sits on

14 the executive board, and its telling the DC

15 Circuit Court of Appeals that it does not

16 have a duty to investigate and halt

17 suspicious orders.

18 Does McKesson validate this

19 position?

20 MS. HENN: Objection to form.

21 THE WITNESS: Can you rephrase

22 that for me?

23 QUESTIONS BY MR. FARRELL:

24 Q. Yeah.

25 In 2016, your trade

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1 Q. Down the right-hand side, you

2 can see two-thirds of the way down it starts,

3 "DEA." The one below that. Yeah.

4 "DEA has required distributors

5 not only to report suspicious orders but to

6 investigate orders by interrogating

7 pharmacies and physicians and take action to

8 halt suspicious orders before they are

9 filled. Those added obligations would

10 significantly expand a report-only duty of

11 distributors under the long-standing

12 regulatory scheme and impose impractical

13 obligations on distributors."

14 Is that McKesson's position?

15 MS. HENN: Objection to form.

16 Outside the scope.

17 THE WITNESS: Obviously we're

18 part of the organization. In parts,

19 you know, I agree with the added --

20 what it would -- you know, the added

21 responsibility or time that it would

22 take to -- you know, to investigate

23 each order.

24 I don't know if I'm answering

25 your question, but...

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1 organization is telling the second highest

2 court in the land, the DC Circuit Court of

3 Appeals, that the DEA is now requiring them

4 to investigate and halt suspicious orders.

5 Haven't we agreed that's been

6 the duty since 1971?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 QUESTIONS BY MR. FARRELL:

10 Q. Tough position to defend, isn't

11 it?

12 MS. HENN: Same objections.

13 THE WITNESS: You know, again,

14 I -- I recognize that other

15 distributors have different systems

16 and have worked with DEA over the

17 years on different methodologies,

18 whether it's a threshold to block it

19 or it's a hold and investigate and

20 then block it. And so, you know, I

21 recognize that.

22 QUESTIONS BY MR. FARRELL:

23 Q. You recognize this position is

24 problematic given your experience, McKesson

25 Corporation, with the DEA?

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1 MS. HENN: Objection to form.
 2 THE WITNESS: I recognize that
 3 I'm sure there's lots of disagreements
 4 about this.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. Yeah.
 7 But we're still trying to
 8 figure out from internal communications
 9 whether or not McKesson signed off on this
 10 brief.
 11 Are you aware of whether or not
 12 they signed off on this?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: I don't -- I am
 15 not aware of the process that goes
 16 into signing off on these briefs and
 17 what that specific looks like. I know
 18 how trade organizations work and how
 19 they get to a point of consensus.
 20 QUESTIONS BY MR. FARRELL:
 21 Q. Let me ask you in a different
 22 way.
 23 We talked about the original
 24 enactment of the Controlled Substances Act
 25 where the penalty for engaging in unlawful

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1 accept or reject the position your trade
 2 organization is taking regarding the
 3 interpretation of the shipping requirement
 4 and reporting requirement?
 5 MS. HENN: Objection to form.
 6 Outside the scope.
 7 THE WITNESS: I apologize. Can
 8 you ask -- ask me again or rephrase?
 9 Do we accept --
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Yeah.
 12 The sentence you see up there
 13 on the screen --
 14 A. Yeah.
 15 Q. -- submitted by your trade
 16 organization to which McKesson sits as an
 17 executive board member, this is a position in
 18 a legal document submitted to the second
 19 highest court in the United States of
 20 America.
 21 Sitting here today, does
 22 McKesson Corporation accept or reject this
 23 position?
 24 MS. HENN: Objection to form.
 25 Outside the scope.

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1 conduct should be prohibitive.
 2 Do you remember talking about
 3 that this morning?
 4 A. I do.
 5 **Q. And so in 2008, McKesson**
 6 **Corporation paid \$13 million, and in 2017,**
 7 **McKesson paid \$150 million.**
 8 **What would happen in today's**
 9 **world if McKesson went to the DEA and said,**
 10 **"We don't have a duty to investigate and halt**
 11 **suspicious orders"? What do you reckon would**
 12 **happen then?**
 13 MS. HENN: Objection to form.
 14 Outside the scope.
 15 **THE WITNESS: I'm not sure**
 16 **exactly what would happen, but they**
 17 **wouldn't be thrilled.**
 18 QUESTIONS BY MR. FARRELL:
 19 Q. So what do you think the fine
 20 will be next time?
 21 A. I can't speculate what it would
 22 be. It depends on the facts and
 23 circumstances and...
 24 Q. So just simply stated, sitting
 25 here today, McKesson Corporation, do you

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1 THE WITNESS: I'd say we accept
 2 this -- accept this --
 3 QUESTIONS BY MR. FARRELL:
 4 Q. You accept --
 5 A. -- as part of that
 6 organization.
 7 Q. What is that?
 8 A. As being part of that
 9 organization.
 10 Q. So your position today is
 11 McKesson does not have a duty to investigate
 12 and halt suspicious orders?
 13 MS. HENN: Objection to form.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. You're in a tough spot here.
 16 A. I can tell you what our program
 17 does, right? We halt -- we block suspicious
 18 orders.
 19 Q. All right. So let's go
 20 further. Page 8. "The 2006 letter from Joe
 21 Rannazzisi fails to explain how the statutory
 22 command of the US Code 823 Section E, a
 23 command that the Attorney General consider
 24 when adjudicating an application for
 25 registration of the applicant's maintenance

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1 of effective controls against diversion" --
 2 MS. HENN: I'm sorry, you're on
 3 page 8. I believe the witness is on
 4 page 9.
 5 THE WITNESS: Oh, excuse me.
 6 Sorry. I was figuring that out when I
 7 looked up there.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. I'm sorry.
 10 A. No, that's me.
 11 Q. Basically, the position in this
 12 brief is they're trying to figure out how in
 13 the world that 2006 letter became a command
 14 to distributors to engage in due diligence
 15 and avoid filling suspicious orders.
 16 MS. HENN: Objection to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. How can you defend this
 19 position, knowing that Masters Pharmaceutical
 20 opinion that was released rejected in its
 21 entirety this position?
 22 So what I'm really trying to
 23 figure out is whether McKesson has been so
 24 intransigent that it continues to pay fines
 25 to the DEA fighting its interpretation of the

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1 nonsense.
 2 MS. HENN: Objection to form.
 3 THE WITNESS: I can say -- I
 4 can't say that it's nonsense. I'm not
 5 sure how to answer this one
 6 specifically.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. Go to page Bates stamp 9.
 9 "Nothing in the federal regulations requires
 10 distributors to investigate the legitimacy of
 11 orders or to halt shipments of any orders
 12 deemed to be suspicious."
 13 Does McKesson disavow this
 14 statement or agree with it?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: You know, I do
 17 think the language of the regulations,
 18 you know, "design and operate a system
 19 to disclose suspicious orders," gets
 20 interpreted in many different ways,
 21 and that -- and that's how different
 22 organizations, distributors, develop
 23 their program.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Respectfully, that's how you

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1 federal regulations until such time as the DC
 2 Circuit Court of Appeals told them so.
 3 MS. HENN: Objection to form.
 4 MR. FARRELL: Terrible
 5 question?
 6 QUESTIONS BY MR. FARRELL:
 7 Q. You get the gist of what I'm
 8 asking you?
 9 A. Can you ask it in a different
 10 way?
 11 Q. Yeah.
 12 This appears to say that
 13 McKesson does not have a duty to engage in
 14 due diligence, nor does it need to avoid
 15 filling suspicious orders.
 16 Is that your position sitting
 17 here today?
 18 MS. HENN: Objection to form.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. "You can't make me," is that
 21 the position McKesson is taking?
 22 MS. HENN: Objection to form.
 23 QUESTIONS BY MR. FARRELL:
 24 Q. I promise I'll quit if you just
 25 simply say that this position here is

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1 get fined \$150 million.
 2 MS. HENN: Objection to form.
 3 QUESTIONS BY MR. FARRELL:
 4 Q. The next sentence: "There is
 5 no prohibition on shipment of suspicious
 6 orders."
 7 That's wrong, isn't it?
 8 MS. HENN: Objection to form.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Make it easier. Let's go to
 11 page 12.
 12 "DEA's regulations had sensibly
 13 imposed a duty on distributors simply to
 14 report suspicious orders, but left it to DEA
 15 and its agents to investigate and halt
 16 suspicious orders."
 17 Nonsense or not nonsense?
 18 MS. HENN: Objection to form.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Or no comment? I'm giving you
 21 an out.
 22 A. I would say no comment. I'm
 23 not sure how to answer that specifically.
 24 Q. Well, the answer should be
 25 someone needs to call HDMA and figure out why

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1 they're taking nonsense positions, but I'll
 2 leave that to somebody else.
 3 All right. Homestretch. Some
 4 toys. As many at this table probably know,
 5 I'm the ARCOS nerd.
 6 You're familiar with ARCOS?
 7 A. I'm familiar with what it is,
 8 yep.
 9 Q. I'm the guy that's been banging
 10 away trying to get access to ARCOS for the
 11 better part of a year and a half, and I got
 12 some.
 13 Now, what this is is the
 14 transactions by every distributor in the
 15 country between 2006 and 2014, and it's
 16 related to Cuyahoga and Summit County. Now,
 17 we also have the rest of the country, so I'm
 18 able to determine national averages, state
 19 averages and county averages for every
 20 distributor, including McKesson. But we're
 21 not going to get into all of that today
 22 because what I really need is I need the
 23 transactional data dating back to 1996. I'm
 24 missing a decade. I have '06 to 2014.
 25 Last week, July 25th, your

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1 counsel confirm that this is the complete
 2 transactional data for McKesson in Cuyahoga
 3 and Summit counties between 2006 and 2018?
 4 MS. HENN: Object to form.
 5 Go ahead.
 6 THE WITNESS: I wasn't involved
 7 in pulling it, so I can't -- without
 8 seeing, I can't confirm that it's
 9 everything.
 10 MR. FARRELL: Yeah, it's really
 11 a question for your counsel, but I'm
 12 not allowed to put her under oath, so
 13 I'm hoping she'll volunteer.
 14 MS. HENN: That's my
 15 understanding, but I'm not the person
 16 who is most knowledgeable about this,
 17 so you should ask one of my
 18 colleagues.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. So all of these questions are
 21 predicated on the fact that this appears to
 22 be the transactional data that was uploaded
 23 to RICOH Relativity by McKesson, but because
 24 there's no discovery document that itemizes
 25 what's what, this is all I know.

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1 counsel provided a spreadsheet that gave us
 2 2006 to 2018. All right? So we've had it
 3 for a week. I played with it a little bit.
 4 But I don't have the decade
 5 from the launch of OxyContin to 2006 yet, but
 6 I'm working on it. So one day we may come
 7 back and have to talk about this
 8 transactional data in a different context.
 9 But that being said, one of the
 10 interesting things that I did was I grabbed
 11 the data provided by your counsel, and I
 12 pulled it up and took a look at it.
 13 MR. FARRELL: Corey, can you
 14 pull that up?
 15 QUESTIONS BY MR. FARRELL:
 16 Q. Now, the first thing I want you
 17 to note is this is highly confidential.
 18 Nobody in here is allowed to talk about it
 19 outside this room.
 20 And it's MCKMDL00478913.
 21 MR. FARRELL: Is that right?
 22 MS. HENN: I see
 23 MCKMDL00478913. That may be the same.
 24 QUESTIONS BY MR. FARRELL:
 25 Q. Okay. Can either you or your

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1 Spreadsheet has up top the
 2 Bates stamp number.
 3 MR. FARRELL: And, Corey, if
 4 you'll click on the letter A, it'll
 5 tell us how many transactions there
 6 are.
 7 QUESTIONS BY MR. FARRELL:
 8 Q. There's a big number down
 9 there. Do you see that?
 10 What's that say?
 11 A. 393,479.
 12 MS. HENN: Just a question to
 13 clarify. Are we in the Summit County
 14 right now?
 15 MR. FARRELL: Oh, yeah, we're
 16 in Summit County.
 17 MS. HENN: Thank you.
 18 MR. FARRELL: We'll just stay
 19 in Summit County.
 20 MS. HENN: Okay.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. All right. Now, you see up
 23 there at the very top of column H, it looks
 24 like it's January -- no, wait. What is that?
 25 Yeah, January 2, 2006.

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1 Do you see that, letter H?
 2 A. I do.
 3 Q. So when we're looking at that,
 4 that's all I got.
 5 A. Okay.
 6 Q. So one of the things that we
 7 can do is we can sort it. So if you go over
 8 to letter M, column M, which is base code,
 9 you see all those base codes?
 10 A. I see those.
 11 Q. Do you know what oxycodone's
 12 base code is?
 13 A. 9143.
 14 Q. So let's sort column M by 9143
 15 only.
 16 So he's going to go over there
 17 and click on the left, go to the data, hit
 18 the filter, come on over, hit the drop-down
 19 menu, close out and then hit 9143. Bam.
 20 Now, if you keep scrolling over
 21 to the right, what he can do is he can go
 22 into column O and tabulate all of the orders
 23 of oxycodone.
 24 So it seems like here there are
 25 119,000 orders for oxycodone in this time

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1 THE WITNESS: Well, relative to
 2 what?
 3 QUESTIONS BY MR. FARRELL:
 4 Q. Relative to the number of
 5 people that need to be taking oxycodone
 6 pills.
 7 MS. HENN: Objection to form.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. Because remember, there was a
 10 period of time where there were 300,000
 11 prescriptions of OxyContin, and then -- in
 12 '96, and then by 2001 there were 6 million,
 13 right?
 14 So when we get the data for the
 15 first ten years, we're going to see a
 16 progression of the number of pills being
 17 delivered. Okay?
 18 So one of the things that I'm
 19 going to have you do is we're able to do some
 20 analysis with the ARCOS data.
 21 MR. FARRELL: So, Corey, if
 22 you'll bring up Summit County PDF.
 23 MS. HENN: Do you have a
 24 document that we can look at? No?
 25 MR. FARRELL: Not yet, no.

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1 frame into Summit County, and the total
 2 number of pills McKesson delivered into
 3 Summit County was 47 million 346 -- wait.
 4 47 --
 5 MS. HENN: You're totaling up
 6 the dose column here?
 7 MR. FARRELL: Yeah.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. 47,734,648 doses of oxycodone
 10 into Summit County.
 11 Is that a lot or not a lot?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: I have to
 14 understand the number of pharmacies,
 15 the number of -- you know, it's a
 16 large number in and of itself, but I'd
 17 need to understand how many customers
 18 is that, how many pharmacies is that.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Summit County, Ohio. It's
 21 Akron, Ohio, right?
 22 A. Right.
 23 Q. That seems like a big number,
 24 doesn't it?
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. This is our initial assessment
 3 between 2006 and 2014 of the top pharmacies
 4 in Summit County by volume.
 5 MS. HENN: By volume of?
 6 MR. FARRELL: Pills of
 7 hydrocodone and oxycodone.
 8 QUESTIONS BY MR. FARRELL:
 9 Q. So if you scroll to the very
 10 next page, you're going to see this is what
 11 we kind of generate. You'll see the black
 12 line is the national level, the red line is
 13 the state level, the purple line is the
 14 county level. And this is Summit County, and
 15 this is both hydrocodone and oxycodone.
 16 And sometimes these
 17 fluctuations make sense because under your
 18 business model sometimes you lose accounts,
 19 sometimes you gain accounts. But in essence,
 20 you see all way over at the far right-hand
 21 side where the big spike comes in? That's
 22 probably the reclassification of hydrocodone
 23 combination products from three down to two,
 24 which I'm assuming means that McKesson picked
 25 up the Rite Aid contract.

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1 MS. HENN: Counsel, just -- I
 2 just want to interpose really quickly.
 3 We would like this in the record with
 4 an exhibit number, at least maybe the
 5 version you have. I think that's
 6 going to be necessary to understand
 7 the deposition transcript and required
 8 by the protocol.
 9 MR. FARRELL: That's fair
 10 enough.
 11 MS. HENN: But I don't want to
 12 interrupt you. Please continue.
 13 QUESTIONS BY MR. FARRELL:
 14 Q. So now what I'm going to do is
 15 I'm going to -- we're going -- --
 16 A. Can I answer the question that
 17 you had before --
 18 Q. Yeah.
 19 A. -- about the Rite Aid piece?
 20 Q. Yeah.
 21 A. Because I think there's two
 22 dynamics related to that time frame. One is
 23 the up-scheduling of hydrocodone, moving it
 24 from a III to a II, which happened in the
 25 fall of 2014 --

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1 A. That's part of the due
 2 diligence process.
 3 Q. Now let's go to page 8. This
 4 is where we're going to kind of nail in a
 5 little bit so you can see where I'm coming
 6 from.
 7 This is oxy -- wait, that's not
 8 even true. That's a bad one. I don't want
 9 to go to 8. I want to go to 10.
 10 This is oxycodone only for Rite
 11 Aid Store Number 3151.
 12 Do you see that?
 13 A. I see that.
 14 Q. Do you see anywhere on this
 15 chart a monthly order of unusual size?
 16 MS. HENN: Object to form.
 17 THE WITNESS: These are monthly
 18 totals.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Yes.
 21 A. Right. I don't have the full
 22 context of this picture, and an example --
 23 Q. Fair enough.
 24 A. -- I don't know -- there are
 25 examples where acquisitions of other

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1 Q. Right.
 2 A. -- September-ish, October-ish
 3 somewhere in there. Additionally, with Rite
 4 Aid specifically, that was them moving out of
 5 their warehouse business to us during that
 6 same time frame.
 7 So there's a couple of factors
 8 in there that are going to impact those, and
 9 we'd need to see the full context of.
 10 Q. Yes, we would, wouldn't we?
 11 A. Yeah.
 12 Q. The full context is necessary
 13 to understand this picture, don't you think?
 14 A. And when I say "full context,"
 15 I mean there are noncontrols, too, so we
 16 understand how big these pharmacies are, what
 17 type of ratios these are to the total
 18 picture.
 19 Q. That's called due diligence.
 20 MS. HENN: Objection to form.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. Right?
 23 A. That being -- looking at a
 24 percentage like that?
 25 Q. Yeah.

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1 pharmacies, growth in noncontrolled, growth
 2 in all the total business. So for me to
 3 answer that, I would need to understand more.
 4 Q. So looking at this table -- it
 5 goes back to January of 2006 -- how many
 6 months exceeded 8,000?
 7 A. It looks like all of them.
 8 Q. So based upon what you
 9 understand of Section 55 and the Lifestyle
 10 Control Drug Monitoring Program and then the
 11 CSMP, you would expect there to be a block on
 12 orders greater than \$8,000 [sic] unless
 13 somebody at McKesson did due diligence to
 14 raise the limit? 8,000 doses.
 15 MS. HENN: Objection to form.
 16 THE WITNESS: I'm trying to
 17 acclimate myself to the time -- the
 18 timeline here for a second.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Well, it shouldn't matter,
 21 because it doesn't matter what time frame
 22 we're talking about. There's not a single
 23 order that is below the threshold of 8,000.
 24 So let's just take one
 25 particular month. Let's look at May of 2011,

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1 which is the tallest spike of 60,000 pills.
 2 That's -- 60,000 is more than 8,000?
 3 A. It is. And so to -- when the
 4 thresholds were implemented as part of the
 5 CSMP in 2008, there was a level setting,
 6 resetting, of thresholds. So you had
 7 existing customers, and there was the -- a
 8 process by which those monthly thresholds
 9 were set. So it doesn't mean that every
 10 threshold beyond, you know, April of 2008 is
 11 at 8,000. They were customized based on due
 12 diligence and use of data.
 13 Q. I completely understand.
 14 A. Yeah.
 15 Q. What I'm asking -- that's what
 16 I'm asking you to walk me through.
 17 A. Okay.
 18 Q. There are orders more than
 19 8,000.
 20 A. There are monthly totals --
 21 monthly accumulation.
 22 Q. Of greater than 8,000 pills of
 23 oxycodone?
 24 A. Correct.
 25 Q. By one pharmacy in Summit

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1 A. Okay.
 2 Q. Maybe somebody can testify that
 3 they recall about it.
 4 A. Yeah.
 5 Q. So now what I want to do is now
 6 that I just acclimated you to this, we're
 7 going to focus on May of 2011. So let's go
 8 back to the original spreadsheet for Summit
 9 County transaction.
 10 And what we're going to do is
 11 we're going to start in column C, and we're
 12 going to limit it to Rite Aid 3151. All
 13 right. We've already limited the base code
 14 to 9143, so now we're going to go over to the
 15 billing date and we're going to limit it to
 16 2011/05.
 17 So he's going to type in the
 18 search box 2011/05, and that's going to give
 19 us all of the transactions in May of 2011.
 20 A. Can I make one clarification on
 21 the dates --
 22 Q. Yes.
 23 A. -- for you?
 24 You see two dates, column H and
 25 column I.

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1 County?
 2 A. Correct.
 3 Q. So we would expect, if McKesson
 4 was following its own policies and
 5 procedures, there to be some explanation for
 6 that in the customer file?
 7 MS. HENN: Objection to form.
 8 THE WITNESS: Yes.
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Because if there's not, that's
 11 a problem, isn't it?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: I wouldn't
 14 classify it as a problem. It could
 15 have happened and may not have been
 16 documented accordingly. It doesn't
 17 mean due diligence wasn't conducted.
 18 QUESTIONS BY MR. FARRELL:
 19 Q. It just means there's no proof
 20 of it.
 21 MS. HENN: Objection to form.
 22 QUESTIONS BY MR. FARRELL:
 23 Q. Agreed?
 24 A. In writing.
 25 Q. Okay. Fair enough.

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1 Q. Yes.
 2 A. Column H is the date that that
 3 was billed.
 4 Q. Yes.
 5 A. Column I is the date that that
 6 order was placed.
 7 Q. Yes.
 8 A. Bounced against our system and
 9 our threshold and checked against whatever
 10 threshold, whether it was -- this one is not
 11 8,000, but for whatever the threshold is.
 12 So if you're wanting to match
 13 what happened in a particular month to a
 14 particular threshold, you would have to use
 15 the sales order date.
 16 Q. Perfect.
 17 So let's go undo column H.
 18 A. Now, I will throw one other
 19 piece of information out there. There's
 20 other dates. There's other dates in our
 21 system, so there could be a slight -- it
 22 could be a margin of error with the date.
 23 Q. I'll give you that.
 24 A. Okay.
 25 Q. So now let's go to column I,

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1 and we're going to do the same thing,
 2 2011/05.
 3 So now let's go over to the
 4 doses, column O. Let's just take --
 5 highlight the entire column of O and see what
 6 it says. 62,700 doses of oxycodone. Okay?
 7 So now what we're going to do
 8 is go to the other spreadsheet that was given
 9 to us, which is the same Bates stamp number
 10 except for it's a 12 instead of a 13, I
 11 think. This, without any other title,
 12 appears to be the omit report and suspicious
 13 order report by McKesson for Summit and
 14 Cuyahoga County.
 15 MR. FARRELL: Counsel?
 16 MS. HENN: Again, I'm not the
 17 best person to ask that question of.
 18 You can ask the witness if you'd like.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. Do you recognize this
 21 spreadsheet?
 22 A. Can you scroll -- scroll to the
 23 right?
 24 The reason I'm pausing is
 25 because the way I typically look at them,

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1 transaction date? So you're going to have to
 2 go up and hit "sort" and -- from biggest to
 3 smallest. Can you do that?
 4 Yeah. Like, you know, instead
 5 of alphabetical order, can we just make sure
 6 that that column is in -- I think if you just
 7 go to column D, if you highlight column D,
 8 then go to home -- can you click on the tab
 9 "home" next to "file" and then go all the way
 10 over to "sort" and "filter" on the far
 11 right-hand side and hit -- yeah, A to Z
 12 should work.
 13 Well, then -- yeah, hit the
 14 drop-down button. Let's just make sure we
 15 have the earliest one. Yeah, 2008.
 16 So this appears -- you only
 17 have omit reports beginning in '08.
 18 A. System-generated omit reports.
 19 Q. Okay. What are the other omit
 20 reports?
 21 MS. HENN: Objection to form.
 22 THE WITNESS: I have seen
 23 examples of, as we were talking about
 24 earlier, customers being reported to
 25 DEA offices with attached spreadsheets

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1 there's different columns and there's things
 2 that are classified in different ways, so the
 3 data pulled is a little bit different.
 4 Q. I imagine that you're seeing it
 5 on a computer monitor, and this is probably
 6 the printout of the data in Excel format.
 7 A. Say that again?
 8 Q. I can try.
 9 A. To the best of your ability.
 10 Q. You probably see this more on a
 11 computer screen than on a piece of paper?
 12 A. Correct.
 13 Q. And so what we're doing is
 14 seeing --
 15 A. Right.
 16 Q. -- the extraction of the data
 17 from whatever program you're running.
 18 A. I think this is -- I just want
 19 to be sure. I know we've looked at data in
 20 this format. I've seen this.
 21 I believe that is the omits.
 22 Q. Good.
 23 Now, if we go over to column D,
 24 let's make sure we put that in -- can we put
 25 that in -- sort it by -- or organize it by

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1 and information on orders. And so I'm
 2 not sure of the mechanism -- I mean,
 3 those aren't in the same system that
 4 these were pulled.
 5 QUESTIONS BY MR. FARRELL:
 6 Q. So just to be clear, you
 7 understand Summit County and Cuyahoga County
 8 are alleging that McKesson and others flagged
 9 suspicious orders and didn't report them or
 10 didn't flag suspicious orders. The whole
 11 thing comes down to -- is you sold 62,000
 12 doses in May of 2011 into Summit County. And
 13 so when you look at this, if you could go to
 14 column E, which is the reported date to the
 15 DEA, you see it's blank. And as he scrolls
 16 down, he's going to continue to scroll down
 17 until he finds some time frame in which one
 18 of these orders that got flagged by your
 19 system was actually reported to the DEA.
 20 So keep on going. I can tell
 21 you it's 2013, the first one that pops up.
 22 So it looks like August 1,
 23 2013, is the first time in Summit County,
 24 Ohio, that McKesson reported a suspicious
 25 order to the DEA.

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1 MS. HENN: Objection.
 2 QUESTIONS BY MR. FARRELL:
 3 Q. That's what it looks like.
 4 MS. HENN: Objection to form.
 5 THE WITNESS: I know that's how
 6 that was -- that was pulled and the
 7 time frame that the blocked orders
 8 were sent, transmitted to
 9 headquarters.
 10 Prior to that, based on
 11 discussions with DEA, out of the 2008
 12 settlement, you know, there were
 13 customers -- I can't say if there were
 14 customers specifically in this county,
 15 I'm talking about in terms of, you
 16 know, the program. We know there were
 17 reports of suspicious orders, along
 18 with customers.
 19 QUESTIONS BY MR. FARRELL:
 20 Q. All right. So to be clear,
 21 right now all I can tell you is what the
 22 record is in this litigation. And on behalf
 23 of Summit County, it appears that the first
 24 suspicious order that was reported, based on
 25 the data provided by McKesson, was August 1,

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1 So assuming that fact to be
 2 true, what would we need to see in the due
 3 diligence file to justify the shipping of an
 4 order that got flagged by your omit report?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: I'm trying to
 7 understand the situation. So can we
 8 talk through it again --
 9 QUESTIONS BY MR. FARRELL:
 10 Q. Yeah.
 11 A. -- in terms of the mechanics of
 12 the here?
 13 Q. So we know there were a whole
 14 bunch of transactions in May of 2011 that
 15 resulted in 62,000 pills being delivered into
 16 Summit County.
 17 A. Understood.
 18 Q. It looks like your system
 19 flagged Rite Aid 3151 for oxycodone base code
 20 9143 on May 20 but did not report it to the
 21 DEA. And I'll suggest to you, and we don't
 22 have to do it today, that if you go and look
 23 at the transactions, while these two --
 24 May 20th two oxycodone orders appear on your
 25 omit report, other oxycodone on the same day

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1 2013.
 2 So if you, McKesson
 3 Corporation, are aware of suspicious orders
 4 that predate this, I'd love to see them.
 5 A. Understood.
 6 Q. Now, if we take column D and we
 7 filter it with just 2011/05. So what this
 8 is, is you recall there's 62,000 pills that
 9 were distributed into Summit County in May
 10 of 2011.
 11 Remember that?
 12 A. Yes.
 13 Q. This is the omit report for the
 14 number of orders from Rite Aid 3151 that got
 15 flagged by your system.
 16 How many of those orders got
 17 reported?
 18 A. Based on the spreadsheet, none.
 19 Q. So what I'm trying to figure
 20 out is if you look at -- on May 20, it looks
 21 like your system flagged oxycodone 7.5s on
 22 the omit report. And if we go and we look,
 23 it wasn't turned in to the DEA. And when we
 24 go and we pull up the transaction data, it
 25 appeared you shipped it anyway.

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1 did not. And in fact, even though you
 2 flagged the May 20 order, you still sold more
 3 pills later in the month.
 4 So I'm trying to figure out
 5 what I would see in a file, what documents
 6 would I need to see to make sense of the fact
 7 that your system is only flagging a couple of
 8 the orders of 62,000, number one, and number
 9 two, make sense of how these flagged orders
 10 didn't get reported to the DEA.
 11 What documents theoretically
 12 would exist?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: I'm not sure what
 15 documents specifically would exist. I
 16 think there's a couple components to
 17 this, or pieces to talk through. One
 18 of them is this time frame, 2000 --
 19 QUESTIONS BY MR. FARRELL:
 20 Q. '11.
 21 A. Correct.
 22 -- was during the time frame
 23 where post the 2008 agreement, in
 24 conversations with DEA and discussions about
 25 the fact that we were -- we were going to

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1 report customers, and suspicious orders along
 2 with that, that -- you know, there's --
 3 there's a time -- timing issue here.
 4 Q. So you understand the position
 5 about reporting suspicious customers McKesson
 6 made to the United States District Attorney
 7 in northern West Virginia and resulted in
 8 you-all getting fined 150 million. So what
 9 I'm trying to figure out is whether or not
 10 the same systemic errors were going on for --
 11 which resulted in these pills going to
 12 Cuyahoga and Summit County.
 13 Do you see where I'm going with
 14 it?
 15 MS. HENN: And, Counsel, I
 16 would just point out that he said he
 17 had a couple parts to his answer, and
 18 we need to listen to his whole answer
 19 to know what it is.
 20 Go right ahead.
 21 THE WITNESS: The other piece
 22 that I just wanted to connect -- or
 23 discuss quickly is you mentioned an
 24 order being placed the next day.
 25 That's -- that's how the model works.

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1 1800 of them on May 25th after your system
 2 flagged on May 20th other orders.
 3 And when you look on May 20th,
 4 there's one, two, three, four, five, six,
 5 seven different oxycodone orders, including
 6 500 oxy 80s.
 7 How is it conceivable that you
 8 were filling this many orders of oxycodone
 9 for this amount and your system not only
 10 isn't flagging all but three, but you're not
 11 reporting any of them?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: I would need to
 14 see the details on this specific --
 15 I've not researched this specific
 16 pharmacy, these specific dates, these
 17 specific orders, what the thresholds
 18 are. I don't understand. I don't
 19 have any of that insight to be able to
 20 piece that together.
 21 QUESTIONS BY MR. FARRELL:
 22 Q. And I'm not expecting you to
 23 just throw it out in the middle of nowhere.
 24 A. Okay.
 25 Q. But you understand what we're

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1 We had a monthly accumulation. If
 2 they placed an individual order over
 3 that amount, it omits. But if there's
 4 still room -- for example, if they
 5 have a threshold of 10,000 and they
 6 tried to place an order of 11,000 but
 7 hadn't purchased any for that month,
 8 they still have that 10,000 monthly
 9 threshold that they could order the --
 10 accumulate against the next day.
 11 So there's reasons why you may
 12 see an omit -- omitted order and a
 13 purchase the next day.
 14 QUESTIONS BY MR. FARRELL:
 15 Q. Let's go back to the other
 16 spreadsheet, which should be May of 2011.
 17 83 orders in one month for
 18 oxycodone from one pharmacy. Let's go all
 19 the way to the bottom and see what the last
 20 date is.
 21 May 26, May 26, May 25th. I
 22 mean, it looks like there's 1,800 oxy 30s on
 23 May 25th.
 24 Oxy 30s are the number one
 25 abused pill in America, and you distributed

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1 doing is we're going back and trying to
 2 reconstruct what happened in Summit County,
 3 and part of the story is you sold 60,000
 4 pills to one pharmacy in one month.
 5 A. I understand that. Part of the
 6 context is the overall size of that pharmacy,
 7 not -- not specifically just including the
 8 impact of 60,000 doses but the number of
 9 prescriptions, what percentage of oxycodone
 10 is that of the total, what type of -- you
 11 know, how big is their patient population.
 12 You know, there's other factors that are
 13 helpful in understanding in putting some
 14 context around these numbers.
 15 Q. Like, for instance, is it the
 16 only pharmacy in the area?
 17 A. Maybe.
 18 Q. All right. Let's go back to
 19 the PDF --
 20 A. Maybe they have multiple
 21 long-term care or hospice facilities. I
 22 don't know until I, you know, have that
 23 information.
 24 Q. Go back to the PDF.
 25 Rite Aid. Do you see 325 East

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1 Waterloo Road, Akron, number 2 pharmacy?
 2 Look at what the number 4 one
 3 is, just right down the street.
 4 So again, I think it's worth
 5 looking into, don't you think?
 6 A. I agree. I would love to have
 7 more context and get into the details.
 8 Q. Okay. This is going to draw an
 9 objection from your counsel. What would be a
 10 reason to set a threshold for 999,999?
 11 MS. HENN: Objection to form.
 12 THE WITNESS: There are -- in
 13 the system there are subsets to base
 14 codes, and so a -- for example, 91 --
 15 91 -- 9193, which is hydrocodone, may
 16 have some subsets for reporting
 17 purposes for us. There may be a
 18 subset, and there could be one or more
 19 of these. There could be a subset for
 20 10 milligram. There could be a subset
 21 for the single entity hydrocodone.
 22 And so we can carve those out
 23 from reporting purposes. That's --
 24 the 999,999 does not mean that they
 25 can get 999,000 pills. It means that

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1 THE WITNESS: You know, I
 2 can't -- I can't say on the data and
 3 the comparison compared to -- those
 4 are data points to look at. They're
 5 big numbers, no doubt.
 6 QUESTIONS BY MR. FARRELL:
 7 Q. Do you agree that one of the
 8 foreseeable harms of engaging in unlawful
 9 conduct in the distribution of prescription
 10 opioids is diversion?
 11 MS. HENN: Objection. Form.
 12 THE WITNESS: Could you ask
 13 that again?
 14 QUESTIONS BY MR. FARRELL:
 15 Q. One of the harms --
 16 A. You said foreseeable first, but
 17 harms --
 18 Q. I'll go back and do it.
 19 Do you agree that one of the
 20 foreseeable harms of engaging in unlawful
 21 conduct in the distribution of prescription
 22 opioids is diversion?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: I think it can
 25 be.

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1 that base code does not conflict with
 2 the main parent -- what I would call a
 3 parent base code.
 4 And so it's for reporting
 5 purpose only. It has nothing to do
 6 with allowing the amount of that total
 7 base code. The parent trumps that
 8 one. It's for reporting purposes
 9 only.
 10 QUESTIONS BY MR. FARRELL:
 11 Q. Do you know how many doses
 12 McKesson distributed of oxycodone nationwide
 13 from January 1, 2006 and December 31, 2014?
 14 This is from ARCOS.
 15 A. I don't have that number.
 16 MS. HENN: Objection to form.
 17 QUESTIONS BY MR. FARRELL:
 18 Q. 9,288,258,480 doses of
 19 oxycodone nationwide. That's more than
 20 there's people in our country.
 21 Distributed 423 million
 22 oxycodone doses in the state of Ohio. That's
 23 over 119 billion milligrams of oxycodone.
 24 Do you think that's too many?
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. FARRELL:
 2 Q. Do you agree that filling
 3 suspicious orders is a direct and proximate
 4 cause of prescription opioid abuse,
 5 addiction, morbidity and mortality?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Filling specific
 8 orders?
 9 MS. HENN: Suspicious orders is
 10 the word he used.
 11 THE WITNESS: Suspicious
 12 orders.
 13 There's a lot of reasons for --
 14 that orders may get flagged as
 15 suspicious, so I think it depends.
 16 QUESTIONS BY MR. FARRELL:
 17 Q. That's fair.
 18 A. They'll get flagged as an order
 19 of unusual size, frequency or pattern and not
 20 mean that it's suspicious or
 21 diversion-related.
 22 Q. Do you believe the prescription
 23 opiate epidemic is an immediate hazard to
 24 public health and safety?
 25 MS. HENN: Objection to form.

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- 1 THE WITNESS: How do you -- how
- 2 are you defining "immediate hazard"?
- 3 QUESTIONS BY MR. FARRELL:
- 4 Q. A hazard.
- 5 A. A hazard?
- 6 Sure.

7 MR. FARRELL: Okay. We will
 8 adjourn with the reservation of rights
 9 for one day, continuing the subject
 10 matters that most interest the
 11 plaintiffs in the MDL in the 30(b)(6)
 12 notices.
 13 MS. HENN: And, I mean, we will
 14 object to continuing past the limit
 15 set by the Court. We feel that there
 16 was a lot of time today that was spent
 17 asking legal questions that could have
 18 been spent on topics.
 19 MR. FARRELL: There was also a
 20 lot of time spent reading documents
 21 that were listed in my 30(b)(6).
 22 MS. HENN: Documents that you
 23 put in front of the witness and wanted
 24 him to read.
 25 But more importantly, I wanted

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1 CERTIFICATE
 2
 3 I, CARRIE A. CAMPBELL, Registered Diplomate Reporter,
 4 Certified Realtime Reporter and Certified Shorthand Reporter, do hereby certify
 5 that prior to the commencement
 6 of the examination, Nathan J. Hartle was duly sworn by me to
 7 testify to the truth, the
 8 whole truth and nothing but the truth.
 9 I DO FURTHER CERTIFY that the foregoing is a verbatim
 10 transcript of the
 11 testimony as taken stenographically by and before me at the
 12 time, place and on the date
 13 hereinbefore set forth, to the best of my ability.
 14 I DO FURTHER CERTIFY that I am
 15 neither a relative nor employee nor attorney nor counsel of any
 16 of the parties to this
 17 action, and that I am neither a relative nor employee of such
 18 attorney or counsel, and
 19 that I am not financially interested in the action.
 20
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 26
 27 CARRIE A. CAMPBELL, NCRA Registered Diplomate Reporter
 28 Certified Realtime Reporter California Certified Shorthand
 29 Reporter #13921 Missouri Certified Court Reporter #859
 30 Illinois Certified Shorthand Reporter #084-004229
 31 Texas Certified Shorthand Reporter #9328 Kansas Certified
 32 Court Reporter #1715
 33 Notary Public

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1 to ask the court reporter to please
 2 designate this transcript
 3 provisionally highly confidential,
 4 which is required under the deposition
 5 protocol, and I also wanted to reserve
 6 the right to read and sign.
 7 I have no questions, and so I
 8 think we are finished.
 9 VIDEOGRAPHER: Okay. The time
 10 is 5:47 p.m., July 31, 2018. Going
 11 off the record completing today's
 12 videotaped session.
 13 (McKesson-Hartle Exhibit 40
 14 marked for identification.)
 15 (Deposition concluded at 5:47 p.m.)
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1 INSTRUCTIONS TO WITNESS
 2
 3 Please read your deposition over
 4 carefully and make any necessary corrections.
 5 You should state the reason in the
 6 appropriate space on the errata sheet for any
 7 corrections that are made.
 8 After doing so, please sign the
 9 errata sheet and date it. You are signing
 10 same subject to the changes you have noted on
 11 the errata sheet, which will be attached to
 12 your deposition.
 13 It is imperative that you return
 14 the original errata sheet to the deposing
 15 attorney within thirty (30) days of receipt
 16 of the deposition transcript by you. If you
 17 fail to do so, the deposition transcript may
 18 be deemed to be accurate and may be used in
 19 court.
 20
 21
 22
 23
 24
 25

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1 ACKNOWLEDGMENT OF DEPONENT

2

3

4 I, _____, do hereby certify that I have read
 5 the foregoing
 6 pages and that the same is a correct transcription of the
 7 answers given by me to
 8 the questions therein propounded, except for the corrections or
 9 changes in form or
 10 substance, if any, noted in the attached Errata Sheet.

8

9

10

11

12 _____ Nathan J.
 13 Hartle DATE

13

14

15 Subscribed and sworn to before me this

16 _____ day of _____, 20 _____.

17 My commission expires: _____

18

19 Notary Public

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1 LAWYER'S NOTES

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3 PAGE LINE

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1 ERRATA

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3 PAGE LINE CHANGE

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